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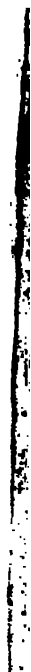
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ISAAC MYER

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A MANUAL
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AND
ORDER OF BUSINESS
IN
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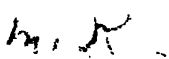
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1904

ADVERTISEMENT.

THIS work contains the Constitution of the United States, and of Pennsylvania, the whole of Mr. Sutherland's Manual, corrected up to the present session, the Rules of both Houses of Congress, and the Manual of Mr. Jefferson. It will therefore be a very useful assistant to old as well as new members of our State Legislatures; embracing, as it does, a mass of important Parliamentary Practice, worthy the attention of every Representative, desirous of serving his constituents with ability and fidelity.

PREFACE.

HAVING for several years occupied a seat in the House of Representatives of Pennsylvania, and having presided over that body and since served as State Senator, it occurred to me, that a work on the Practice and Method of proceeding adopted in the two branches of the General Assembly would not be unacceptable to the members. The excellent Manual of Thomas Jefferson contains the landmarks of order, and must always be a useful guide; but it is well known to all conversant with the business of public bodies, that it does not supply all that is wanting to State Legislatures. The Manual I present is intended as far as practicable to explain the detail so necessary to a new member, and to note the exact words which custom has sanctioned in the order of business.

INDEX

OF THE

LEGISLATIVE MANUAL OF PENNSYLVANIA.

	Page.
<i>Absence</i> , no member to be absent without leave	83, 213
mode of asking leave of	87
<i>Adhere</i> ,	113
<i>Assembly</i> , meeting of	68
opening of	70
<i>Amendments</i> ,	108
to amendments	113
on third reading	108
between the two Houses	112
concur	113
non-concur	113
recede	114
insist on	115
<i>Bills</i> , proceedings on	96.
signing of	83
in committee of the whole	99
leave to sit again upon	102
on second reading	106
on third reading	107
returned without signing	122
public	67
private	67
read by title	133
<i>Business</i> , order of	84
<i>items of unfinished</i>	80

	Page
<i>Census,</i>	59
<i>Committees, standing</i>	51
reports of	88
reports of select	89
additional members added to	88
reports of, amended	92
of the whole	51, 127
of the whole, quorum of	128
of the whole, of conference	117
of the whole, report of	117
to compare bills	120
<i>Constitution, Pennsylvania</i>	13
<i>Debate, freedom of</i>	69
<i>Documents, withdrawal of</i>	88
<i>Elections, contested</i>	134
of governor	134
of representatives	135
of senators	134
of state treasurer	137
of United States senator	139
of representatives to Congress	162
opening returns of governor's	141
<i>Electors of president and vice-president</i>	144
<i>Impeachment,</i>	152
<i>Preamble,</i>	101
<i>Privilege of members</i>	68
<i>Postponement,</i>	126
<i>Question, privileged</i>	49, 124
previous	124
<i>Recede,</i>	114
<i>Reconsideration,</i>	94
<i>Representatives, election of</i>	63
qualification of	63
number of	63
privilege of	68
<i>Representation, census of</i>	57
ratio of	57, 59
in senate	57, 59
<i>Resolutions,</i>	74, 86
original	74, 86

OF PENNSYLVANIA.

iii

<i>Rules, of house of representatives,</i>	Page
dispensed with	44
of senate	131
<i>Senators, districts of</i>	146
number of	62
qualifications of	61
term of service of	60
privilege of	60
<i>Speaker, duties of</i>	68
signing bills	79
<i>Taxable Inhabitants,</i>	83
<i>Title, read</i>	59
<i>Vacancies, how filled</i>	107
	142



THE CONSTITUTION
OF THE
COMMONWEALTH OF PENNSYLVANIA,
AS AMENDED BY THE CONVENTION OF ONE THOU-
SAND EIGHT HUNDRED AND THIRTY-
SEVEN—THIRTY-EIGHT.

WE, the people of the Commonwealth of Penn-
sylvania, ordain and establish this Constitution for
its government.

ARTICLE I.

OF THE LEGISLATURE.

Section I. The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

Sec. II. The representatives shall be chosen annually by the citizens of the city of Philadelphia and of each county respectively on the second Tuesday of October.

Sec. III. No person shall be a representative who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the state three years next preceding his election, and the last year thereof an inhabitant of the district in and for which he shall be chosen a representative, *unless he shall have been absent on the*

public business of the United States or of this State.

Sec. IV. Within three years after the first meeting of the General Assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the Legislature, and apportioned among the city of Philadelphia and the several counties, according to the number of taxable inhabitants in each : and shall never be less than sixty nor greater than one hundred. Each county shall have at least one representative, but no county hereafter erected shall be entitled to a separate representation until a sufficient number of taxable inhabitants shall be contained within it to entitle them to one representative, agreeably to the ratio which shall then be established.

Sec. V. The senators shall be chosen for three years by the citizens of Philadelphia and of the several counties at the same time, in the same manner, and at the same places where they shall vote for representatives.

Sec. VI. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the Legislature and apportioned among the districts formed as hereinafter directed, according to the number of taxable inhabitants in each ; and shall never be less than one-fourth, nor greater than one-third, of the number of representatives.

Sec. VII. The senators shall be chosen in dis-

tricts, to be formed by the Legislature; but no district shall be so formed as to entitle it to elect more than two senators, unless the number of taxable inhabitants in any city or county shall, at any time, be such as to entitle it to elect more than two, but no city or county shall be entitled to elect more than four senators; when a district shall be composed of two or more counties, they shall be adjoining; neither the city of Philadelphia, nor any county shall be divided in forming a district.

Sec. VIII. No person shall be a senator who shall not have attained the age of twenty-five years, and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State; and no person elected as aforesaid, shall hold said office after he shall have removed from such district.

Sec. IX. The senators who may be elected at the first general election after the adoption of the amendments to the Constitution, shall be divided by lot into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year; so that thereafter one-third of the whole number of senators may be chosen every year. The senators elected before the amendments to the Constitution shall be adopted, shall hold their offices during the terms for which they shall respectively have been elected.

Sec. X. The General Assembly shall meet on the first Tuesday in January, in every year, unless sooner convened by the Governor.

Sec. XI. Each house shall choose its speaker and other officers; and the senate shall also choose a speaker pro tempore, when the speaker shall exercise the office of governor.

Sec. XII. Each house shall judge of the qualifications of its members. Contested elections shall be determined by a committee to be selected, formed and regulated in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised by law to compel the attendance of absent members, in such manner and under such penalties as may be provided.

Sec. XIII. Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free state.

Sec. XIV. The Legislature shall not have power to enact laws annulling the contract of marriage in any case where, by law, the courts of this Commonwealth are or may hereafter be empowered to decree a divorce.

Sec. XV. Each house shall keep a journal of its proceedings, and publish them weekly, except such parts as require secrecy; and the yeas and *nays of the members* on any question shall, at the

desire of any two of them, be entered on the journals.

Sec. XVI. The doors of each house, and of committees of the whole shall be open, unless, when the business shall be such as ought to be kept secret.

Sec. XVII. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. XVIII. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the Commonwealth. They shall in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same. And for any speech or debate in either house, they shall not be questioned in any other place.

Sec. XIX. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this Commonwealth which shall have been created, or the emoluments of which shall have been increased during such time : and no member of Congress or other person holding any office (except of attorney at law and in the militia) under the United States or this Commonwealth, shall be a member of either house during his continuance in Congress or in office.

Sec. XX. When vacancies happen in either house, the speaker shall issue writs of election to fill such vacancies.

Sec. XXI. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills.

Sec. XXII. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Sec. XXIII. Every bill which shall have passed both houses shall be presented to the Governor. If he approve he shall sign it, but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to re-consider it. If, after such re-consideration, two-thirds of that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which likewise it shall be re-considered, and if approved by two-thirds of that house, it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of persons voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall be a law, unless sent back within three days after their next meeting.

Sec. XXIV. Every order, resolution, or vote to which the concurrence of both houses may be necessary (except on a question of adjournment) *shall be presented to the Governor, and before it shall take effect, be approved by him, or being dis-*

COMMONWEALTH OF PENNSYLVANIA. 19

approved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

Sec. XXV. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges, without six months previous public notice of the intended application for the same, in such manner as shall be prescribed by law. Nor shall any charter for the purposes aforesaid be granted for a longer period than twenty years; and every such charter shall contain a clause reserving to the Legislature the power to alter, revoke or annul the same, whenever in their opinion it may be injurious to the citizens of the Commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

ARTICLE II.

OF THE GOVERNOR.

Section I. The Supreme Executive Power of this Commonwealth shall be vested in a Governor.

Sec. II. The Governor shall be chosen on the second Tuesday of October, by the citizens of the Commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the senate, who shall open and publish them in the presence of the members of both houses of the Legislature. The person having the highest number of votes shall be Go-

vernor. But if two or more shall be equal and highest in votes, one of them shall be chosen Governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee to be selected from both houses of the Legislature, and formed and regulated in such manner as shall be directed by law.

Sec. III. The Governor shall hold his office during three years from the third Tuesday of January next ensuing his election, and shall not be capable of holding it longer than six in any term of nine years.

Sec. IV. He shall be at least thirty years of age, and have been a citizen and an inhabitant of this State seven years next before his election; unless he shall have been absent on the public business of the United States or of this State.

Sec. V. No member of Congress or person holding any office under the United States or this State, shall exercise the office of Governor.

Sec. VI. The Governor shall at stated times receive for his services a compensation, which shall be neither increased nor diminished during the period for which he shall have been elected.

Sec. VII. He shall be commander-in-chief of the army and navy of this Commonwealth, and of the militia, except when they shall be called into the actual service of the United States.

Sec. VIII. He shall appoint a Secretary of the Commonwealth during pleasure, and he shall nominate, and by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in this *Constitution*. He shall have power to fill all va-

cancies that may happen in such judicial offices during the recess of the senate, by granting commissions which shall expire at the end of their next session: *Provided*, that in acting on executive nominations, the senate shall sit with open doors, and in confirming or rejecting the nominations of the Governor, the vote shall be taken by yeas and nays.

Sec. IX. He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment.

Sec. X. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Sec. XI. He shall, from time to time, give to the General Assembly information of the state of the Commonwealth, and recommend to their consideration such measures as he shall judge expedient.

Sec. XII. He may, on extraordinary occasions, convene the General Assembly; and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

Sec. XIII. He shall take care that the laws be faithfully executed.

Sec. XIV. In case of the death or resignation of the Governor, or of his removal from office, the speaker of the senate shall exercise the office of Governor, until another Governor shall be duly qualified; but in such case another Governor shall be *chosen at the next annual election of repre-*

representatives, unless such death, resignation or removal, shall occur within three calendar months immediately preceding such next annular election, in which case a Governor shall be chosen at the next succeeding annular election of representatives. And if the trial of a contested election shall continue longer than until the third Monday of January next ensuing the election of Governor, the Governor of the last year, or the speaker of the senate who may be in the exercise of the executive authority, shall continue therein until the determination of such contested election, and until a Governor shall be duly qualified as aforesaid.

OF THE SECRETARY OF THE COMMONWEALTH.

Sec. XV. The Secretary of the Commonwealth shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the Legislature, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III.

OF ELECTIONS.

Section I. In elections by the citizens, every white freeman of the age of twenty-one years, having resided in this State one year, and in the election district where he offers to vote ten days immediately preceding such election, and within two years paid a state or county tax, which shall *have been* assessed at least ten days before the *election*, shall enjoy the rights of an elector. But

COMMONWEALTH OF PENNSYLVANIA. 23

a citizen of the United States, who had previously been a qualified voter of this State, and removed therefrom and returned, and who shall have resided in the election district, and paid taxes as aforesaid, shall be entitled to vote, after residing in the State six months. *Provided*, that white freemen, citizens of the United States, between the ages of twenty-one and twenty-two years, and having resided in the State one year, and in the election district ten days as aforesaid, shall be entitled to vote, although they shall not have paid taxes.

Sec. II. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*.

Sec. III. Electors shall in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

ARTICLE IV.

OF IMPEACHMENT.

Section I. The House of Representatives shall have the sole power of impeaching.

Sec. II. All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

Sec. III. The Governor, and all other civil officers under this Commonwealth, shall be liable to impeachment for any misdemeanor in office; but

judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honour trust or profit, under this Commonwealth: the party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

ARTICLE V.

OF THE JUDICIARY.

Section I. The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of Oyer and Terminer and General Jail Delivery, in a Court of Common Pleas, Orphans' Court, Register's Court, and a Court of Quarter Sessions of the Peace, for each county; in justices of the peace, and such other courts as the legislature may from time to time establish.

Sec. II. The judges of the Supreme Court, of the several Courts of Common Pleas, and of such other courts of record as are or shall be established by law, shall be nominated by the governor, and by and with the consent of the senate appointed and commissioned by him. The judges of the Supreme Court shall hold their offices for the term of fifteen years, if they shall so long behave themselves well. The president judges of the several Courts of Common Pleas, and of such other courts of record as are or shall be established by law, and all other judges required to be learned in the law, shall hold their offices for the term of ten years, if they shall so long behave themselves well. *The associate judges of the Courts of Com-*

mon Pleas shall hold their offices for the term of five years, if they shall so long behave themselves well. But for any reasonable cause which shall not be sufficient ground of impeachment, the governor may remove any of them on the address of two-thirds of each branch of the legislature. The judges of the Supreme Court and the president of the several Courts of Common Pleas shall at stated times receive for their services an adequate compensation to be fixed by law, which shall not be diminished during their continuance in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit under this Commonwealth.

Sec. III. Until otherwise directed by law, the Courts of Common Pleas shall continue as at present established. Not more than five counties shall at any time be included in one judicial district organized for said courts.

Sec. IV. The jurisdiction of the Supreme Court shall extend over the State; and the judges thereof, shall by virtue of their offices, be justices of Oyer and Terminer and General Jail Delivery, in the several counties.

Sec. V. The judges of the Court of Common Pleas, in each county, shall by virtue of their offices, be justices of Oyer and Terminer and General Jail Delivery, for the trial of capital and other offenders therein; any two of the said judges, the president being one, shall be a quorum: but they shall not hold a Court of Oyer and Terminer, or Jail Delivery, in any county, when the judges of the Supreme Court, or any of them, shall be sitting *in the same county*. The party accused, as well

as the Commonwealth, may, under such regulations as shall be prescribed by law, remove the indictment and proceedings, or a transcript thereof, into the Supreme Court.

Sec. VI. The Supreme Court, and the several Courts of Common Pleas, shall, beside the powers heretofore usually exercised by them, have the power of a Court of Chancery, so far as relates to the perpetuating of testimony, the obtaining of evidence from places not within the State, and the care of the persons and estates of those who are non compotes mentis. And the legislature shall vest in the said courts such other powers to grant relief in equity, as shall be found necessary: and may, from time to time, enlarge or diminish those powers or vest them in such other courts as they shall judge proper, for the due administration of justice.

Sec. VII. The judges of the Court of Common Pleas of each county, any two of whom shall be a quorum, shall compose the Court of Quarter Sessions of the Peace, and Orphans' Court thereof; and the register of wills, together with the said judges, or any two of them, shall compose the Register's Court of each county.

Sec. VIII. The judges of the Courts of Common Pleas shall, within their respective counties, have the like powers with the judges of the Supreme Court, to issue writs of certiorari to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

Sec. IX. The president of the court in each *circuit within such circuit*, and the judges of the

Court of Common Pleas within their respective counties, shall be justices of the peace, so far as relates to criminal matters.

Sec. X. A register's office, for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each county.

Sec. XI. The style of all process shall be "The Commonwealth of Pennsylvania." All prosecutions shall be carried on in the name and by the authority of the Commonwealth of Pennsylvania, and conclude "against the peace and dignity of the same."

ARTICLE VI.

OF SHERIFFS AND CORONERS.

Section I. Sheriffs and coroners shall, at the times and places of elections of representatives, be chosen by the citizens of each county. One person shall be chosen for each office, who shall be commissioned by the governor. They shall hold their offices for three years, if they shall so long behave themselves well, and until a successor be duly qualified; but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of the said offices shall be filled by an appointment, to be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.

OF THE MILITIA.

Sec. II. The freemen of this Commonwealth shall be armed, organized and disciplined for its

defence, when and in such manner as may be directed by law. Those who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

OF PROTHONOTARIES, CLERKS, &c.

Sec. III. Prothonotaries of the Supreme Court shall be appointed by the said court for the term of three years if they so long behave themselves well. Prothonotaries and clerks of the several other courts, recorders of deeds, and registers of wills, shall at the times and places of election of representatives, be elected by the qualified electors of each county, or the districts over which the jurisdiction of said courts extends, and shall be commissioned by the governor. They shall hold their offices for three years if they shall so long behave themselves well, and until their successors shall be duly qualified. The legislature shall provide by law, the number of persons in each county who shall hold said offices, and how many and which of said offices shall be held by one person. Vacancies in any of the said offices shall be filled by appointments to be made by the governor, to continue until the next general election, and until successors shall be elected and qualified as aforesaid.

Sec. IV. Prothonotaries, clerks of the peace and orphans' courts, recorders of deeds, registers of wills, and sheriffs, shall keep their offices in the county town of the county in which they, respectively, shall be officers, unless when the Governor *shall* for special reasons, dispense therewith, for

COMMONWEALTH OF PENNSYLVANIA. 29

any term not exceeding five years after the county shall have been erected.

OF COMMISSIONS.

Sec. V. All commissions shall be in the name and by the authority of the Commonwealth of Pennsylvania, and be sealed with the state seal, and signed by the Governor.

OF THE STATE TREASURER.

Sec. VI. A State Treasurer shall be elected annually, by joint vote of both branches of the Legislature.

OF JUSTICES OF THE PEACE AND ALDERMEN.

Sec. VII. Justices of the peace or aldermen shall be elected in the several wards, boroughs, and townships, at the time of the election of constables, by the qualified voters thereof, in such number as shall be directed by law, and shall be commissioned by the Governor for a term of five years; but no township, ward or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough.

OFFICERS TO BE PROVIDED FOR BY LAW.

Sec. VIII. All officers whose election or appointment is not provided for in this Constitution, shall be elected or appointed as shall be directed by law. No person shall be appointed to any office within any county who shall not have been a *citizen and an inhabitant* therein one year next

before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this state, or any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this state, to which a salary is, or fees or perquisites are by law annexed; and the Legislature may by law declare what state offices are incompatible. No member of the senate or of the house of representatives shall be appointed by the Governor to any office during the term for which he shall have been elected.

TENURE OF OFFICE.

Sec. IX. All officers for a term of years shall hold their offices for the terms respectively specified, only on the condition that they so long behave themselves well; and shall be removed on conviction of misbehaviour in office or of any infamous crime.

OF DUELS.

Sec. X. Any person who shall, after the adoption of the amendments proposed by this Convention to the Constitution, fight a duel or send a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honour or profit in this State, and shall be punished otherwise in such manner as is, or may be, prescribed by law; but *the executive may remit the said offence and all its disqualifications.*

ARTICLE VII.

OF PUBLIC SCHOOLS.

Section I. The Legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the state, in such manner that the poor may be taught gratis.

OF SEMINARIES OF LEARNING.

Sec. II. The arts and sciences shall be promoted in one or more seminaries of learning.

OF RELIGIOUS SOCIETIES AND CORPORATE BODIES.

Sec. III. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the Constitution of this state had not been altered or amended.

Sec. IV. The Legislature shall not invest any corporate body or individual with the privilege of taking private property for public use, without requiring such corporation or individual to make compensation to the owners of said property, or give adequate security therefor, before such property shall be taken.

ARTICLE VIII.

OF THE OATH OF OFFICE.

Members of the General Assembly, and all officers, executive and judicial, shall be bound by oath or affirmation, to support the Constitution of the Commonwealth, and to perform the duties of their respective offices with fidelity.

ARTICLE IX.

OF THE DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognised and unalterably established, WE DECLARE THAT

Section I. All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness. [*See 4 Dall. 258, 260.*]

Sec. II. All power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness;—For the advancement of these ends, they have, at all times, an unalienable and indefeasible right to alter, reform or abolish their government, in such manner as they may think proper.

Sec. III. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can, of right, be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience; and no preference shall ever be given, by law, to any religious establishments or modes of worship. [*17 S. & R. 160. 2 Pa. R. 417. 1 Pa. R. 13.*]

COMMONWEALTH OF PENNSYLVANIA. 33

Sec. IV. No person who acknowledges the being of a God and a future state of rewards and punishments, shall on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this Commonwealth. [*See 2 Cowen, 433, n. 572, n. 18 Johns. 98. 4 Am. Jour. 286.*]

Sec. V. Elections shall be free and equal.

Sec. VI. Trial by jury shall be as heretofore, and the right thereof remain inviolate. [*See 1 Binn. 416. 8 Wheat. 674. 3 Paige, 75.*]

Sec. VII. The printing presses shall be free to every person who undertakes to examine the proceedings of the Legislature, or any branch of government: and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. In prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence: And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases. [*See 3 Yeates, 520.*]

Sec. VIII. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures: And no warrant to search any place, or to seize any person or things, shall issue, without describing them as nearly as may be, nor without probable cause,

supported by oath or affirmation. [*See 6 Binn. 316 3 Cranch, 548, 453.*]

Sec. IX. In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favour, and, in prosecutions by indictment or information, a speedy public trial, by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land.

Sec. X. No person shall for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, or by leave of the court, for oppression and misdemeanour in office. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use, without the consent of his representatives and without just compensation being made. [*See 3 Yeates, 362. 6 Binn. 509. 20 Johns. 735. 1 Dall. 312. 2 Johns. Ch. R. 164. 1 S. & R. 514 2 Raw. 448. 2 Am. Ju. 210. 12 Mass. 466. Ashm. 417.*]

Sec. XI. All courts shall be open, and every man for an injury done him in his lands, goods, person or reputation, shall have remedy by the due course of law, and right and justice administered without sale, denial or delay. Suits may be brought

against the Commonwealth in such manner, in such courts, and in such cases as the legislature may by law direct.

Sec. XII. No power of suspending laws shall be exercised, unless by the legislature, or its authority.

Sec. XIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Sec. XIV. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Sec. XV. No commission of Oyer and Terminer or jail delivery shall be issued.

Sec. XVI. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

Sec. XVII. No *ex post facto* law, nor any law impairing contracts shall be made. [See 3 *Dall.* 386, 396. 6 *Binn.* 271. 8 *Wheat.* 84, 92, 256. 5 *Wheat.* 420. 4 *Wheat.* 122, 309, 518. 6 *Wheat.* 131. 12 *Wheat.* 213. 16 *Johns.* 233. 13 *Mass.* 16.]

Sec. XVIII. No person shall be attainted of treason or felony by the legislature.

Sec. XIX. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth; the estates of *such persons* as shall destroy their own

lives, shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

Sec. XX. The citizens have a right, in a peaceable manner, to assemble together, for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address or remonstrance.

Sec. XXI. The right of citizens to bear arms, in defence of themselves and the state, shall not be questioned.

Sec. XXII. No standing army shall, in time of peace, be kept up without the consent of the Legislature; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

Sec. XXIII. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Sec. XXIV. The legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behaviour.
[See 1 *Peters*. 546.]

Sec. XXV. Emigration from the state shall not be prohibited.

Sec. XXVI. To guard against transgressions of the higher powers which we have delegated, WE DECLARE, that every thing in this article is excepted out of the general powers of government, *and shall for ever remain inviolate.*

ARTICLE X.

OF AMENDMENTS TO THE CONSTITUTION.

Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of the commonwealth shall cause the same to be published three months before the next election, in at least one newspaper in every county in which a newspaper shall be published; and if in the legislature next afterwards chosen such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of the commonwealth shall cause the same again to be published in manner aforesaid, and such proposed amendment or amendments shall be submitted to the people in such manner and at such time, at least three months, after being so agreed to by the two houses as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the qualified voters of this state voting thereon, such amendment or amendments shall become a part of the constitution; but no amendment or amendments shall be submitted to the people oftener than once in five years; Provided, that if more than one amendment *be submitted, they shall be submitted in*

such manner and form, that the people may vote for or against each amendment separately and distinctly.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments in the constitution of the commonwealth, and in order to carry the same in complete operation, it is hereby declared and ordained, That,

Section I. All laws of this commonwealth in force at the time when the said alterations and amendments in the said constitution shall take effect, and not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of individuals as of bodies corporate, shall continue as if the said alterations and amendments had not been made.

Sec. II. The alterations and amendments in the said constitution shall take effect from the first day of January, eighteen hundred and thirty-nine.

Sec. III. The clauses, sections, and articles of the said constitution, which remain unaltered shall continue to be construed and have effect as if the said constitution had not been amended.

Sec. IV. The general assembly which shall convene in December, eighteen hundred and thirty-eight, shall continue its session, as heretofore notwithstanding the provision in the eleventh section of the first article, and shall at all times

regarded as the first general assembly under the amended constitution.

Sec. V. The governor who shall be elected in October, eighteen hundred and thirty-eight, shall be inaugurated on the third Tuesday in January, eighteen hundred and thirty-nine, to which time the present executive term is hereby extended.

Sec. VI. The commissions of the judges of the supreme court, who may be in office on the first day of January next, shall expire in the following manner: The commission which bears the earliest date shall expire on the first day of January, Anno Domini one thousand eight hundred and forty-two; the commission next dated shall expire on the first day of January, Anno Domini one thousand eight hundred and forty-five; the commission next dated shall expire on the first day of January, Anno Domini one thousand eight hundred and forty-eight; the commission next dated shall expire on the first day of January, Anno Domini one thousand eight hundred and fifty-one; and the commission last dated shall expire on the first day of January, Anno Domini one thousand eight hundred and fifty-four.

Sec. VII. The commissions of the president judges of the several judicial districts and of the associate law judges of the first judicial district shall expire as follows: The commissions of one-half of those who shall have held their offices ten years or more at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February, one thousand eight hundred and thirty-nine; the commissions of the other *half of those who shall have held their of-*

fices ten years or more at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February, one thousand eight hundred and forty-two; the first half to embrace those whose commissions shall bear the oldest date. The commissions of all the remaining judges who shall not have held their offices for ten years at the adoption of the amendments to the constitution shall expire on the twenty-seventh day of February next after the end of ten years from the date of their commissions.

Sec. VIII. The recorders of the several mayors' courts, and other criminal courts in this commonwealth, shall be appointed for the same time, and in the same manner, as the president judges of the several judicial districts; of those now in office, the commission oldest in date shall expire on the twenty-seventh day of February, one thousand eight hundred and forty-one, and the others every two years thereafter according to their respective dates. Those oldest in date expiring first.

Sec. IX. The legislature at its first session under the amended constitution, shall divide the other associate judges of the state into four classes. The commissions of those of the first class shall expire on the twenty-seventh day of February, eighteen hundred and forty; of those of the second class on the twenty-seventh day of February, eighteen hundred and forty-one; of those of the third class on the twenty-seventh day of February, eighteen hundred and forty-two; and those of the fourth class on the twenty-seventh day of February, eighteen hundred and forty-three. The *said classes* from the first to the fourth shall be

COMMONWEALTH OF PENNSYLVANIA. 41.

arranged according to the seniority of the commissions of the several judges.

Sec. X. Prothonotaries, clerks of the several courts (except of the supreme court) recorders of deeds and registers of wills, shall be first elected under the amended constitution, at the election of representatives in the year eighteen hundred and thirty-nine, in such manner as may be prescribed by law.

Sec. XI. The appointing power shall remain as heretofore, and all officers in the appointment of the executive department shall continue in the exercise of the duties of their respective offices until the legislature shall pass such laws as may be required by the eighth section of the sixth article of the amended constitution, and until appointments shall be made under such laws; unless their commissions shall be superseded by new appointments, or shall sooner expire by their own limitations, or the said offices shall become vacant by death or resignation, and such laws shall be enacted by the first legislature under the amended constitution.

Sec. XII. The first election for aldermen and justices of the peace shall be held in the year eighteen hundred and forty, at the time fixed for the election of constables. The legislature at its first session under the amended constitution shall provide for the said election and for subsequent similar elections. The aldermen and justices of the peace now in commission, or who may in the interim be appointed, shall continue to discharge the duties of their respective offices, until fifteen

days after the day which shall be fixed by law for the issuing of new commissions, at the expiration of which time, their commissions shall expire.

In testimony that the foregoing is the amended constitution of Pennsylvania, as agreed to in convention, We the officers and members of the convention have hereunto signed our names, at Philadelphia the twenty-second day of February, Anno Domini one thousand eight hundred and thirty-eight, and the Independence of the United States of America the sixty-second.

JOHN SERGEANT, President.

Daniel Agnew	James Clarke
Wm. Ayres	John Clarke
M. W. Baldwin	William Clark
Ephraim Banks	A. J. Cline
John Y. Barclay	Lindley Coates
Jacob Barndollar	R. E. Cochran
Chas. A. Barnitz	Thos. P. Cope
Andrew Bedford	Joshua F. Cox
Thos. S. Bell	Walter Craig
James Cornell Biddle	Richd. M. Crain
Lebbeus L. Bigelow	Geo. T. Crawford
Saml. C. Bonham	Cornelius Crum
Chas. Brown	Benjn. Martin
Jeremiah Brown	John J. M'Cahen
William Brown	E. T. M'Dowell
Pierce Butler	James M'Sherry
Samuel Carey	Mark Darrah
John Cummin	Harmar Denny
Thomas S. Cunningham	John Dickey
William Curll	Joshua Dickerson
Wm. Darlington	Jacob Dillinger
George Chambers	Jas. Donegan
John Chandler	J. R. Donnell
Jos. R. Chandler	Joseph M. Doran
Ch. Chauncey	James Dunlop
Nathaniel Clapp	Thomas Earle

D. M. Farrelly.
 Robt. Fleming
 Walter Forward
 John Foulkrod
 Joseph Fry, Jr.
 John Fuller
 John A. Gamble
 William Gearhart
 David Gilmore
 Virgil Grenell
 William L. Harris
 Thomas Hastings
 Ezra S. Hayhurst
 Wm. Hays
 Abm. Helfenstein
 M. Henderson
 Wm. Henderson
 Wm. Hiester
 William High
 Jos. Hopkinson
 John Houpt
 Jabez Hyde
 Charles Jared Ingersoll
 Phs. Jenks
 George M. Keim
 James Kennedy
 Aaron Kerr
 Jos. Konigmacher
 Jacob Krebs
 H. G. Long
 David Lyons
 Alex. Magee
 Joel K. Mann
 W. M. Meredith
 James Merrill
 Levi Merkel
 Wm. L. Miller
 James Montgomery

Christian Meyers
 D. Nevin
 Wm. Overfield
 Hiram Payne
 Matthias Pennypacker
 James Porter
 James Madison Porter
 Saml. A. Purviance
 E. C. Reigart
 A. H. Read
 Geo. W. Riter
 Jno. Riter
 H. Gold Rogers
 Samuel Royer
 James M. Russell
 Daniel Saeger
 John Morin Scott
 Tobias Sellers
 G. Seltzer
 Geo. Serrill
 Henry Scheetz
 George Shilleto
 Thomas H. Sill
 Geo. Smith
 Wm. Smyth
 Joseph Snively
 Jno. B. Sterigere
 Jacob Stickel
 Ebenezer W. Sturdevant
 Thomas Taggart
 Morgan J. Thomas
 James Todd
 Thomas Weaver
 Jacob B. Weidman
 R. G. White
 Geo. W. Woodward
 R. Young
 James Pollock

Attest, S. SHOCK, Secretary.

G. L. FAUS,
 J. WILLIAMS,

} Assistant Secretaries.

RULES
FOR THE GOVERNMENT
OF THE
HOUSE OF REPRESENTATIVES
OF PENNSYLVANIA.

Of the Duties of the Speaker.

1. He shall take the chair at the hour to which the house shall have been adjourned, and immediately call the members to order, and on the appearance of a quorum, shall cause the journal of the preceding day to be read, which may then be corrected by the House.

2. He shall preserve order and decorum, and in debate shall prevent personal reflections, and confine members to the question under discussion.—When two or more members rise at the same time, he shall name the one entitled to the floor.

3. He shall decide questions of order. An appeal from his decision shall be made by two members, or the Speaker may, in the first instance, submit the question to the House. On questions of order there shall be no debate, except on an appeal from the decision of the Speaker, or on a reference of a question by him to the house, when no member shall speak more than once, unless by *leave of the house*; all decisions upon questions

of order shall be noted by the clerk, and placed at the end of the journal of each session, with a reference to the decision as stated in the journal.

4. While the Speaker is putting a question or addressing the house, none shall walk out of or across the house, nor in such case, or when a member is speaking, shall entertain private discourse, nor while a member is speaking, shall pass between him and the chair.

5. The Speaker shall appoint the members of standing and select committees, unless otherwise ordered by the house.

6. Acts, addresses and joint resolutions shall be signed by the Speaker, and writs, warrants and subpoenas, issued by the house, shall be signed by him, and attested by the clerk.

7. He shall have a general direction of the hall. He may name a member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.*

Of the Order of Business.

8. After the reading of the journal, the order of business shall be as follows:

1st. Letters, petitions, memorials, remonstrances, and accompanying documents, may be presented and referred.

2d. Original resolutions may be offered; items

* The Speaker can, under this rule, before the hour to which the house stands adjourned has arrived, name a member to perform the duties of the chair, with power to call the members to order, and preside over the deliberations. [See *Journal*, 1826-7, page 490; 1827-28, page 520.]

of unfinished business may be referred ; leave of absence and leave to withdraw petitions and documents, may be asked ; and motions to appoint additional members of committees may be made.

3d. Reports of committees may be made :

1st, from standing committees.

2nd, from select committees.

4th. Bills on a third reading.

5th. Reports and resolutions may on motion be considered.

6th. And motions to re-consider may be made.

7th. Of bills.

1st, those in which the house has made progress on a second reading.

2nd, those reported by a committee of the whole.

3d, those in which the committee of the whole has made progress and has leave to sit again.

4th, bills not yet considered in committee of the whole, shall be taken up.

9. Petitions and documents shall be presented only on Mondays and Thursdays.

10. If a member shall have several petitions or documents to present on the same day, he may present them together, provided he shall present a written list of them to the speaker.*

11. Petitions and remonstrances shall be presented to the house in the alphabetical order of the names of the several counties of the Commonwealth, as announced by the speaker.†

* Adopted 29th January, 1834.

† Adopted 13th January, 1834.

12. No member shall be permitted to make a motion, or address the speaker, unless such member shall be at his own desk.

Of Business and Debate.

13. When a member is about to speak in debate, or to communicate any matter to the house, he shall rise and respectfully address himself to "Mr. Speaker," confining his remarks to the subject before the house, and avoiding personal reflections.

14. If any member in debate transgress the rules of the house, the speaker shall, or any member may, through the speaker, call him to order; the member so called to order, shall immediately sit down, unless permitted to explain; the house shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the speaker shall be submitted to, and if the case require it, the member so called to order, shall be liable to the censure of the house.

15. No member shall speak more than twice to the same question, without leave of the house.

Of Debate.

16. No member, when speaking, shall be interrupted, except by a call to order by the speaker, or by a member through the speaker, or by a member to explain, or by a motion for the previous question; nor shall any member be referred to by name in debate, unless for a transgression of the rules of the house, and then by the speaker only.

17. A member presenting a petition, or other paper, to the chair, shall state only the general purport of it. The name of every member presenting a petition or other paper, or making a motion, shall be entered on the journal.

Of Motions.

18. All motions made and seconded shall be repeated by the speaker, who shall put the question distinctly in the following form, viz.

“As many as are of opinion, (as the question may be) say *Aye*.”

And after the affirmative is expressed, “as many as are of the contrary opinion, say “*No*.”

But the speaker, or any member, may call for a division of the house, when the speaker shall again put the question distinctly, and in the following manner, viz.

As many as are in the affirmative will rise; and when he has announced the number in the affirmative, he shall put the opposite side of the question.

As many as are in the negative will rise.

19. If the speaker or any two members require it, a motion shall be written.

It may be withdrawn by the mover and seconded before amendment or decision, and, if withdrawn, the proceedings had thereon shall be expunged from the journal.

20. Any member may call for the division of a question, which shall be divided, if it comprehends questions so distinct, that one being taken away, the rest may stand entire for the decision *of the house*; a motion to strike out and insert

shall be deemed indivisible. But a motion to strike out being lost, shall preclude neither amendment nor a motion to strike out or insert.*

No motion can be received to postpone for the purpose of introducing a substitute.

21. A motion to concur, and a decision of that motion, by the house, shall preclude a motion to non-concur; and a motion to non-concur, and a decision of the motion in the negative, shall amount to a concurrence.

Of Privileged Questions.

22. No business regularly before the house shall be interrupted except by a motion

For adjournment,

For the previous question, namely: "*shall the main question be now put?*"

For postponement,

For commitment

Or for amendment.

23. A motion for adjournment shall always be in order, and shall be decided without debate, except that it cannot be received when the house is voting on another question, nor while a member is addressing the house.

A motion for the previous question shall preclude amendment and discussion of the original subject; but the previous question shall not be moved by less than twelve members rising for

* A motion to amend, by inserting first January, seven-hundred and seventy, cannot be divided to end with seven-hundred. [*Journal*, 1819-20, page 777.]

that purpose, and shall be decided without debate.*

A motion for postponement shall preclude commitment. A motion for commitment shall preclude amendment or decision on the original subject.

24. No motion for reconsideration shall be permitted, unless made and seconded by members who were in the majority on the vote on the original question, and within six days, exclusive of Sundays, after the decision.

25. When a blank is to be filled, the question shall be first taken on the largest sum, greatest number, and remotest day.

26. In all cases of elections, except for speaker, there shall be a previous nomination of the candidates at least one day before the election, and a majority of the members present shall be necessary to a choice.

Every resolution, order, or vote, to which the concurrence of the senate is necessary, and a motion to alter the rules of the house, or for information from the executive or departments, shall lie on the table one day.

No motion or proposition for a tax or charge on the people shall be discussed the day on which it is made or offered.

Of Committees.

27. Committees may be of three kinds, viz.

* In the House of Representatives of the United States, one member may demand the previous question, but a majority must second the call or motion before the question can be put.

Committees of the whole house,
Standing committees,
Select committees.

Of Committee of the Whole.

28. The rules and proceedings observed in the house, shall be observed, as far as they are practicable, in committee of the whole, except that a member may speak oftener than twice on the subject; nor can a motion for the previous question be made therein.

29. When the house resolves itself into a committee of the whole, the speaker shall appoint a chairman, unless otherwise ordered by the house.

30. Amendments made in committee of the whole shall not be read by the speaker on his resuming the chair, unless required by one or more of the members.*

31. When in committee of the whole, any paper laid on the table of the house may be called for by a member, and read by the clerk, unless the committee otherwise order.

32. No committee shall sit during the sitting of the house without leave.

33. The following standing committees shall be appointed at the commencement of each session, until otherwise ordered :

A committee of ways and means.

A committee on the judiciary system.

* Amendments made in committee of the whole are not parts of the bill, when the committee reports progress and leave to sit again is not granted by the House. *Journal*, 1820-21, 913.

A committee on pensions and granting annuities.*

A committee on claims.

A committee on agriculture.

A committee on education.

A committee on domestic manufactures.

A committee of accounts.

A committee on vice and immorality.

A committee on the militia system.

A committee on election districts.

A committee on banks.

A committee on estates and escheats.

A committee on bridges and state and turnpike roads.

A committee on corporations.

A committee on local appropriations.†

A committee on lands.‡

Which several committees shall each consist of seven members.

A committee on bills, to consist of three members.

A committee on the library, to consist of three members.

A committee on inland navigation and internal improvement, to consist of thirteen members.

Of Bills.

34. All bills shall be introduced, upon the reports of committees: standing and select committees may report by bill. Members asking

* See *Journal*, 1834-5, 207.

† See *Journal*, 1827-8, 640.

‡ See *Journal*, 1833-4, 57.

leave to bring in a bill, shall give one day's notice, stating the object of the bill, and upon leave granted, a committee shall be appointed to prepare and bring in a bill accordingly.

35. Every bill shall receive three several readings in the house, and the two last of which shall be at length, previously to its passage; but no bill shall be read twice in the same day; and all bills and joint resolutions, after the first reading, shall be printed for the use of the members, unless otherwise ordered by the house, and shall be read in committee of the whole: public bills shall be made the order of a particular day, and shall, when called for, have preference of private bills, which shall be taken up according to their seniority, reckoning from the date of their introduction into the house; and when any bill shall be presented from the senate for concurrence, the speaker shall determine, or the house may order upon the printing the same, and direct accordingly.

36. Communications from the senate to the house shall be read, and information shall be given to the senate whenever any proposition coming from that body shall be concurred in.

37. When the names of the members shall be called, it shall be done in alphabetical order, except Mr. Speaker, who shall be called last.

38. The yeas and nays of the members on any question, shall at the desire of any two of them, be entered on the journals; and the members shall have a right to insert the reasons of their votes on the journals.

39. No member shall absent himself without first obtaining leave of the house.

40. No member shall be permitted to vote on any question, unless he be within the bar, and when the yeas and nays are called, he be present to answer to his name.

41. On the call of the yeas and nays, the clerk shall read the names of the members after they have been called, and no member shall be permitted to change his vote unless he at that time declares that he voted under a mistake of the question.

42. On the call of a member for a bill or other subject, on the table of the house, the question shall be decided without debate.

Of Persons Privileged.

43. None but members of the senate, their officers, the governor and heads of departments, judges of the courts of this Commonwealth, and former members of the Legislature, shall be permitted to come within the bar of the house during its session, unless specially introduced by a member. And no person, not a member of the legislature, shall be allowed to come upon the floor of the house, or sit in any seats appropriated for members, or interrupt a member by speaking to him in his seat while the house is in session, and it shall be the duty of the door-keeper to give notice to any person offending against this rule.

44. It is not permitted to any person to smoke tobacco at any time within the chamber of the *house*, or the rooms adjoining thereto.

Of Rules.

55. No rule shall be altered or dispensed with, but by two-thirds of the members present.

46. The rules now adopted, shall be the rules of the House of Representatives of this Commonwealth until otherwise ordered, and shall be published in pamphlet form, and delivered by the clerk to the members of each succeeding legislature within the first week of the session.

Decisions of the House upon Questions of Order.

Quere. Can a majority of the house appropriate an afternoon session to the consideration of a bill which could not be reached in regular order, or does it require two-thirds? Undecided. *Journal* 1826-7, page 351.

After information has been given to the senate that the house insists upon its non-concurrence in an amendment by the senate, a motion to recede from the non-concurrence is not in order.* *Jour. H. R. sess.* 1827-8. p. 781. [In the House of Representatives of the United States this motion would be read.]

The same principle is decided in *Journal*, 1816-17, p. 708.

The proceedings of the house cannot be expunged from the journal under the Constitution and practice of the house, without the unanimous consent of the members present. *Journal H. R* 1832-3, p. 728.

* In this case a committee of conference had been pointed, and reported they could not agree.

The speaker decided, and the house sustained the decision, that a question on a resolution for dispensing with the joint rule relating to the transmission of bills, having been laid one day on the table, under the twenty-sixth rule of the house, is decided in the affirmative by a majority of the votes of the members present. *Journal H. R.* 1833-4, p. 816.

The speaker decided, and the house sustained the decision, that a motion to postpone indefinitely a question upon granting leave to the committee of the whole to sit again on a resolution, together with the resolution, is in order. *Journal H. R.*, 1837-8, page 430.

In H. R., 1837-8. After the speaker had voted upon a question, and before the decision of the house was announced by him, leave was asked for several members to vote on the question, which was refused—yeas 20, nays 52. *Journal*, page 1067.

LEGISLATIVE MANUAL

OF

PENNSYLVANIA.

OF THE LEGISLATURE.

Constitution, Article 1, Section 1.

“The legislative power of this commonwealth shall be vested in a general assembly, which shall consist of a senate and house of representatives.”

Of the Census and Ratio of Representatives.

Sec. IV. Within three years after the first meeting of the General Assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the Legislature, and apportioned among the city of Philadelphia and the several counties, according to the number of taxable inhabitants in each: and shall never be less than sixty nor greater than one hundred. Each county shall have at least one representative, but no county hereafter erected shall be entitled to a separate representation until a sufficient number of taxable inhabitants shall be contained within it to entitle them to one representative, agreeably to the ratio which shall then be established.

Taxable Inhabitants.

In obedience to the foregoing section of the constitution, the act of the 6th of January, 1821, [*Purdon, 5th ed. page 155.*] was passed, entitled "An act to provide for the enumeration of the taxable inhabitants within this commonwealth," which directs the commissioners of the several counties of this commonwealth, every seven years after the passage of the act, to issue their precepts to the respective township, ward, or district assessors, requiring them, within thirty days after the date of such precept, to make out two complete lists in alphabetical order, containing a just and true account of the names, surnames and occupations of every taxable person of the age of twenty-one years and upwards, whether male or female, resident within their respective township, ward, or district.

The commissioners, on receiving the returns of their respective assessors, are required carefully to examine said lists, comparing them with former duplicate lists of the respective townships, wards, or districts, or any other means by which they may ascertain their correctness, and on the discovery of any error or omission, they are required to certify the nature and extent of the same, with the probable cause thereof, under their hands and seals of office, and on or before the first Tuesday in December next ensuing, transmit to the governor, under their respective hands and seals of office, duplicates of the several returns received by them as aforesaid, with the said certificates, *which returns and certificates the governor shall lay before the general assembly then in session.*

Pursuant to this act, the following is the list of taxable inhabitants, as returned by the county commissioners, at the last apportionment in the year 1835.

<i>Counties.</i>	<i>Taxables.</i>	<i>Counties.</i>	<i>Taxables.</i>
Adams	5167	Luzerne	6083
Alleghany	13684	Lycoming	4396
Armstrong	4553	Mercer	5196
Beaver	5314	Mifflin	2411
Bedford	4712	M'Kean	492
Berks	11743	Montgomery	9773
Bradford	4721	Northumberland	3933
Bucks	10450	Northampton	9211
Butler	4322	Perry	2942
Cambria	1912	Philadelphia City	18449
Centre	4705	Philadelphia County	31398
Chester	11682	Pike	937
Clearfield	1395	Potter	556
Columbia	4818	Schuylkill	4700
Crawford	5164	Susquehanna	3592
Cumberland	6047	Somerset	3639
Dauphin	5508	Tioga	2585
Delaware	3900	Union	4358
Erie	6082	Venango	3014
Fayette	6094	Warren	1600
Franklin	7060	Washington	8470
Greene	3347	Wayne	2120
Huntingdon	6102	Westmoreland	8223
Indiana	3193	York	9559
Jefferson	902		
Juniata	2065		317,793
Lancaster*	16583	Deaf and Dumb	446
Lebanon	4410	Slaves	30
Lehigh	5355		

* No return received from Columbia district.

Term of Service of Senators.

Sec. V. The senators shall be chosen for three years by the citizens of Philadelphia and of the several counties at the same time, in the same manner, and at the same places where they shall vote for representatives.

Of the Ratio of Representation in the Senate.

Sec. VI. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the districts, formed as hereinafter directed, according to the number of taxable inhabitants in each; and shall never be less than one-fourth, nor greater than one third of the number of representatives.

Of Districts for electing Senators.

Sec. VII. The senators shall be chosen in districts, to be formed by the Legislature; but no district shall be so formed as to entitle it to elect more than two senators, unless the number of taxable inhabitants in any city or county shall, at any time, be such as to entitle it to elect more than two, but no city or county shall be entitled to elect more than four senators; when a district shall be composed of two or more counties, they shall be adjoining; neither the city of Philadelphia, nor any county shall be divided in forming a district.

Of the Qualifications of Senators.

Sec. VIII. No person shall be a senator who *shall not have attained* the age of twenty-five years,

and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State; and no person elected as aforesaid, shall hold said office after he shall have removed from such district.

Of Classing the Senators.

Sec. IX. The senators who may be elected at the first general election after the adoption of the amendments to the Constitution, shall be divided by lot into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year; so that thereafter one-third of the whole number of senators may be chosen every year. The senators elected before the amendments to the Constitution shall be adopted, shall hold their offices during the terms for which they shall respectively have been elected.

Number of Senators, and Districts.

In compliance with the directions of the sixth section of the 1st article of the constitution it has been enacted, That until the next enumeration of taxable inhabitants and an apportionment thereon, the senate shall consist of thirty-three members, and be apportioned in districts as follows; at a ration of 9,256.

Districts.

- 1st. The city of Philadelphia elects two.
- 2d. The county of Philadelphia—three.
- 3d. The counties of Montgomery, Chester and Delaware—three.
- 4th. The county of Bucks—one.
- 5th. The county of Berks—one.
- 6th. The counties of Lancaster and York—three.
- 7th. The counties of Dauphin and Lebanon—one.
- 8th. The counties of Perry, Mifflin, Juniata, Union and Huntingdon—two.
- 9th. The counties of Columbia and Schuylkill—one.
- 10th. The counties of Lehigh and Northampton—one.
- 11th. The counties of Luzerne, Monroe, Wayne and Pike—one.
- 12th. The counties of Lycoming, Centre and Northumberland—one.
- 13th. The counties of Bradford and Susquehanna—one.
- 14th. The counties of Franklin, Cumberland and Adams—two.
- 15th. The counties of Bedford and Somerset—one.
- 16th. The county of Westmoreland—one.
- 17th. The county of Washington—one.
- 18th. The counties of Fayette and Greene—one.
- 19th. The counties of Allegheny and Butler—one.
- 20th. The counties of Beaver and Mercer—one.

21st. The counties of Crawford and Erie—one.

22d. The counties of Jefferson, M'Kean, Potter, Tioga, Venango and Warren—one.

23d. The counties of Indiana, Armstrong, Cambria and Clearfield—one.

Of the Election of Representatives.

Sec. II. The representatives shall be chosen annually by the citizens of the city of Philadelphia and of each county respectively on the second Tuesday of October.

Of the Qualifications of Representatives.

Sec. III. No person shall be a representative who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the state three years next preceding his election, and the last year thereof an inhabitant of the district in and for which he shall be chosen a representative, unless he shall have been absent on the public business of the United States or of this State.

In obedience to the fourth section of the first article of the Constitution, the third section of the Act of 16th of June, 1836, enacts, that until the next enumeration of taxables and apportionment thereon made, the house of representatives, at a ratio of three thousand and fifty-seven shall consist of one hundred members, viz.

The city of Philadelphia elects seven.

County of Philadelphia—eight.

County of Bucks—three.

County of Chester—four.

County of Lancaster—six.

County of York—three.

and for the city and county of Philadelphia at the State-house; and the judges of the several districts of the county so met shall add together the number of votes which shall appear to be given for any person or persons, who shall thereunto be found to be highest in vote or elected as representatives or senators, and shall forthwith make out duplicate returns of the election of such person or persons as shall be so elected and chosen representatives or senators, and when a governor is to be chosen, like returns of all the votes given for any person or persons for governor; and having lodged one of each of the said returns in the office of the prothonotary of the county, shall enclose, seal and direct the others, when the same relates to the choice of a governor, to the speaker of the senate; when to the election of a senator or senators, to the senate; when to a member or members of the house of representatives, to the house of representatives. And one of the said judges shall deliver the returns, so sealed and directed to the sheriff, endorsing thereon the time of delivering the same; and having received the returns of any district for the election of a senator or senators, or one or more members of the house of representatives, which may, by law, be directed to be completed and made out within the said county for the same election, the sheriff shall forthwith, by himself or his deputy, transmit the whole of the said returns to the secretary of the Commonwealth, so that the same shall be delivered into the secretary's office within twenty days after the last of *returns shall have been received by said sheriff.*

Sec. 13. In the city of Philadelphia and in any county, where the election shall be holden only

County of Crawford—two.

County of Venango—one.

County of Erie—two.

County of Mercer—two.

Thirty-three, the present number of senators, and one hundred, the present number of representatives, cannot be increased under the present Constitution. The number might, however, be *reduced* to *fifteen* senators, and *sixty* representatives; but the increasing population, the various new objects of legislation, and a general anxiety on the part of the people to be represented, in a body in which so many of their rights are decided upon, will doubtless prevent the present number of representatives in both branches from being reduced.

Of the Returns of Elections.

Act of the 15th February, 1799. Purdon, 312. 5th Ed.*

Sect. 12. As soon as all the votes shall be read off and counted, the judges of each district, in case the county be divided into districts, shall make out, under their hands, a fair statement and certificate of the number of votes which shall have been given for each candidate; distinguishing the station or office he was voted for, which number shall be expressed in words at length, and not in figures only: and one of the said judges shall take charge of such certificate and produce the same in a meeting of one judge from each district within the same county, at the court house,

* Only so much of sections 12 and 13 as relates to the returns of members of the Legislature are inserted in the *Manual*.

and for the city and county of Philadelphia at the State-house; and the judges of the several districts of the county so met shall add together the number of votes which shall appear to be given for any person or persons, who shall thereunto be found to be highest in vote or elected as representatives or senators, and shall forthwith make out duplicate returns of the election of such person or persons as shall be so elected and chosen representatives or senators, and when a governor is to be chosen, like returns of all the votes given for any person or persons for governor; and having lodged one of each of the said returns in the office of the prothonotary of the county, shall enclose, seal and direct the others, when the same relates to the choice of a governor, to the speaker of the senate; when to the election of a senator or senators, to the senate; when to a member or members of the house of representatives, to the house of representatives. And one of the said judges shall deliver the returns, so sealed and directed to the sheriff, endorsing thereon the time of delivering the same; and having received the returns of any district for the election of a senator or senators or one or more members of the house of representatives, which may, by law, be directed to be completed and made out within the said county for the same election, the sheriff shall forthwith, by himself or his deputy, transmit the whole of the said returns to the secretary of the Commonwealth so that the same shall be delivered into the secretary's office within twenty days after the last of returns shall have been received by said sheriff.

Sec. 13. In the city of Philadelphia and in any county, where the election shall be holden on

at one place, the returns thereof shall be made without delay in like manner as herein directed, as nearly as the different circumstances shall permit; and when two or more counties shall compose a district for the choice of one or more members of the senate or house of representatives, the judges of the election in each county having met as aforesaid at their court-house, shall make out a fair statement under their hands, of all the votes which shall have been given at the said election within their county for any person or persons as a member or members of the senate or house of representatives, as the case may be, and one of the said judges shall take charge of such certificate, and produce the same in a meeting of one judge from each county, at such place in the said district as is or shall be appointed by law for that purpose, on the seventh day after the election, and the said judges shall then and there cast up the several county returns, and make duplicate returns of the person or persons chosen for the said district, and one of the said returns, if there shall be more than of one kind, shall be deposited in the prothonotary's office of the county in which they meet, and the other delivered to the sheriff of the said county, sealed and directed as is herein before prescribed, and the day on which the same is so delivered shall also be endorsed thereon. And each prothonotary within this Commonwealth, shall make out a copy thereof, and certify the same, and shall forthwith transmit said copy under a sealed cover, directed to the Secretary of the Commonwealth, by placing the same in the nearest *post-office*.

The Legislature having thus provided for the transmission of the returns to the Secretary of the Commonwealth, he hands them over to the clerks of the two houses respectively, on the first Tuesday in December.

Sec. 16. The judges of the elections, who shall meet at their respective court-houses, or other place appointed by law, to compare the several lists and certificates, and to cast up the number of votes for each candidate, shall give notice in writing to each member of the house of representatives and senate, who shall be elected, and reside in their respective districts, within ten days next after the day of making up the return. [*Purdon*, 315.]

Meeting of the General Assembly.

Article 1. Section 1. The general assembly shall meet on the first Tuesday of January in every year, unless sooner convened by the governor.

Privileges.

Sec. XVIII. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the Commonwealth. They shall in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same. And for any speech or debate in either house, they shall not be questioned in any other place.

A member of assembly is privileged from arrest, summons, citation, or other civil process du-

ring his attendance on the public business confided to him: and it seems his suits cannot be forced on to trial during the session of the legislature. *Geyer's Les. vs. Irwin*, 4 *Dall.* 107.

So a member of a state convention is privileged from a summons or arrest, during the sitting of the convention, and for a reasonable period before and after the session. *Bolton vs. Martin*, 1 *Dall.* 296.

The claim of privilege must be made at a proper time. Therefore, if the attorney of a member of assembly, confess judgment, when the cause comes on for trial, without claiming privilege, the party will not afterwards be relieved. *Geyer's Les. vs. Irwin*, 4 *Dall.* 107.

Freedom of Debate.

The 29d article of the declaration of rights in the constitution of Massachusetts, declares, that —“The freedom of deliberation, speech and debate in either house of the legislature is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint in any other court or place whatsoever.” In an action for slander, brought against a member of the legislature, who plead his privilege, the following points were ruled by the supreme court of Massachusetts:

1. That the court was competent to decide on a plea of privilege, pleaded by a member of the house of representatives in bar to an action for slander. *Coffin vs. Coffin*, *Mas. Rep.* vol. 4.

2. The freedom of deliberation, speech and debate, secured by the declaration of rights to each

house of the legislature is rather the privilege of the individual members, than of the house as an organized body; being derived from the will of the people, the members are entitled to it, even against the will of the house. *Ibid.*

3. The article, securing this freedom, ought to be construed liberally, that its full design may be answered: and it extends to every act resulting from the nature of the member's office, and done in the due execution of it; and exempts him from prosecution for every thing said or done by him as a representative, whether according to the rules of the house or not.

4. So if he be out of the chamber, sitting in committee, or in a convention of the two houses out of the representative chamber.

5. A representative is not answerable in a prosecution for defamation, if the words charged were uttered in the execution of his official duty, although spoken maliciously, nor, if not uttered in the execution of his official duty, and not spoken maliciously or with intent to defame.

Opening of the Session.

The members of both branches of the legislature, or at least a majority, a number sufficient to constitute a quorum, arrive by the first Tuesday of January. It is customary to open the session in the house at 12 o'clock, meridian, and in the senate in the afternoon, about 3 o'clock. Those members who arrive first at the seat of government, select such seats as they are best pleased with. And this right is so well settled, that no *one pretends* to question it. No person is allowed

to take a seat by proxy, unless it be a member from a county, who can take seats for the whole delegation of his county. This is done by taking possession of the keys of the respective desks selected. In the senate, where the body is so small, where the members are elected for four years, where only one-fourth vacate their seats annually, and where a portion of that fourth is not unfrequently re-elected, little or no difficulty occurs in obtaining seats. The rule however is, that new members can take, if they arrive at Harrisburg sufficiently soon, any of the seats vacated by the fourth whose time expires, although some of them may be re-elected, and would like to retain their old location in the senate. But as the members of a small body are always courteous to each other, no misunderstanding is likely to take place among the senators, particularly as they have to remain together for four years, they avoid every thing that would cause unpleasant feelings, or engender personal dislikes.

In the house of representatives, in the bustle of one hundred members, these matters are not so nicely weighed. Every man is exceedingly diligent in getting what he considers the best seat in the house.

The individuals elected, having taken their seats, and the secretary of the commonwealth having handed the returns to the clerk, who is seated in front of the speaker's chair, some one of the old members rises, and remarks: "As this is the day assigned by the constitution for the meeting of the general assembly, I move, that the clerk open and read *the returns* of the members elected

from the city of Philadelphia, and the several counties of this commonwealth." This motion being seconded, the clerk states the motion, and asks, "Will the house agree to the motion?"—which being decided in the affirmative, the clerk says: "It is agreed to;" and then opens and reads the returns, commencing with the city of Philadelphia, in order according to the dates the counties have been formed. Having gone through, he calls over the names of the members present, in alphabetical order—He then announces the number present: some one of the representatives then moves, that the members proceed to the choice of a speaker. This is done in pursuance of the XI. section, first article, which declares each house shall choose its speaker. As soon as this motion is seconded, the clerk rises, and after stating the motion, asks: "Will the members present proceed to the choice of a speaker?" Which being agreed to, he calls over the names of the members, who, in voting, pronounce aloud the name of the person they wish elected speaker, pursuant to the 2d section of the 3d article of the constitution, which declares, that "all elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*."

It requires a majority of all the votes of the members present in favour of any candidate to elect him. Should there not, therefore, be a majority of votes for one candidate, a second, third, and fourth vote, and so on, will be taken until a choice is made.

In the senate, in the year 1814, a number of *rotings* took place between two candidates, viz:

Isaac Weaver and P. C. Lane: neither of the candidates could obtain a majority of the whole number present: and as both the candidates had given their votes to the Hon. John Tod, who had formerly been speaker of the house of representatives, the senators finally turned their attention to that gentleman, and elected him on the third day of the session. The clerk having taken down the votes for speaker, and having counted them, announces that "Mr. —, having — votes, being a majority of the votes of the gentlemen present, is elected speaker." This gentleman then takes the chair, and makes the necessary acknowledgment for the honour conferred on him. He now asks the house to name a member to administer to him the requisite qualifications. This is invariably declined; and he is requested to name a member himself. He then calls some experienced member, who, standing in front of the speaker's desk, administers the oath of office in the following form:

"You do swear, that you will support the constitution of the United States; so help you God."

"You do also swear, that you will support the constitution of the state of Pennsylvania, and that you will discharge your duty as speaker and member of the house of representatives, with fidelity; so help you God."

If the speaker swear by the uplifted hand—
"You do swear by Almighty God, the searcher of all hearts, that you will support the constitution of the United States, and that as you shall answer to God at the great day."

Speaker, I move that the resolution, together with the report, (on the subject, stating it) be postponed, for the purpose of introducing the following, as a substitute ;" which motion, if seconded, the speaker states, and by this expedient the substitute is placed upon the journals with the original report ; and he thus obtains a vote thereon, expressive of the wish of the house.

Reports of Committees Amended.

During the session of 1823-4, a report was made upon an item of the governor's message relative to the choosing of electors of president and vice-president of the United States. The report was accompanied by a resolution requesting that the committee might be discharged from the further consideration of the subject. Many of the members said, that the report was not such an one as ought to be adopted by the house. That it was drawn up with the view of supporting the caucus system. On page 362, we find, on motion of R. Smith and Mr. Roberts, the house resumed the consideration of the *resolution* attached to the report of the committee, relative to changing the time and place of meeting of the electors of president and vice-president of the United States, postponed on the 5th instant ; when a motion was made by Mr. Todd and Mr. Holgate, That the house resolve itself into committee of the whole for the express purpose of "amending the *report*, so that it will contain no expression for or against either a congressional or state caucus ;" and on agreeing to the question, the yeas were 62, nays 26. So it was determined in the affirmative. Page 379, the

lows: "As many as are in favour of the motion will say aye." Having paused a moment he reverses it by saying—"As many as are against it will say no." As this motion uniformly carries, the speaker sometimes puts the question thus:—"Will the house agree to the motion?" which being determined in the affirmative, he announces that "it is agreed to." He then asks, "Of what number shall the committee consist?" The answer is "two." The speaker then observes, "two has been named: no other number having been named, the committee will consist of two." The speaker *then* names the committee—"the committee are Messrs. A. B. and C. D." In making up this committee, the gentleman offering the motion is always first named upon it. The two gentlemen thus appointed, immediately repair to the bar of the senate chamber, where they find the sergeant-at-arms of that body, who being notified that they are a committee from the other house, rises and addresses the speaker of the senate, as follows: "A committee from the house of representatives." The speaker of the senate rises from his seat, as soon as the sergeant-at-arms announces the committee, and addresses the senate in the same language: "A committee from the house of representatives." The committee now step some three or four paces within the bar of the senate, and the first named member addresses the speaker, who continues standing during the ceremony, as follows: "Mr. Speaker, we have been appointed a committee by the house of representatives to inform the senate that the house of representatives is organized, and ready to proceed to business."

The committee then withdraw, and the speaker resumes his seat. The committee return to the house and take their seats. The chairman, if he discovers that there is no business before the house, rising in his place, makes report as follows: "Mr. Speaker, the committee appointed to inform the senate that the house of representatives is organized, and ready to proceed to business, Report, that they have discharged that duty." The speaker repeats their report.

A similar committee is appointed by the senate, who wait upon the house, are received in the same manner, and make report to the senate. It is proper here to adopt the following motion: Resolved, That a committee be appointed to prepare and report a system of rules and regulations for the government of the house, and until such report is made and approved, that the rules of the last house be adopted. This is done in obedience to the 13th section of the first article of the constitution, which vests each house with power to determine upon its own rules of proceeding.

The following resolution is usually presented on the same afternoon, by a member rising and announcing as follows: "Mr. Speaker, I offer the following resolution:" He then reads it: "Resolved, That the members of this house, the clerk, sergeant-at-arms, and door-keeper, each be furnished, during the present session, with four daily newspapers, or as many papers as shall be equivalent thereto in price, and that the expenses be paid out of the contingent fund, and that the clerk be directed to pay out of the contingent fund the postage on letters, documents, newspa-

pers, and pamphlets, sent and received by the members of this house, and the members sending such documents and pamphlets shall endorse the number of sheets enclosed, and their names respectively thereon: and also their names respectively on the letters and newspapers sent, and that the postage account of each member be placed upon the Journal. As soon as the member shall have read his resolution, he walks up in front of the speaker, and politely hands it to him, who says—"the following resolution has been moved and seconded," and hands it to the clerk, who reads it aloud. As soon as he has gone through the reading of it, the speaker asks, "What order will the house take upon this resolution? The mover, if he is anxious to dispose of it *immediately*, says, "I move the house proceed to the second reading and consideration of the resolution." Some member seconds the motion; the speaker rises and states it, and puts the question—"As many as are in favour of proceeding will say aye." "The contrary opinion will say no." "The ayes have it, it is agreed to." The speaker says, "The resolution will be again read." The clerk reads the resolution. The speaker then says: "The resolution is before the house," and after a momentary delay, if no objections are made, asks, "Is the house ready for the question?" and being answered in the affirmative, he rises and puts the question as follows: "As many as are in favour of the *passage* of the resolution will say aye." "The contrary opinion will say no." If the speaker from the sound of the voices, *thinks the ayes have it*, he will say, "The ayes appear

to have it." If no one question his judgment, he then says, "the ayes *have* it." If, however, any one doubts, he calls for a *division*, when the speaker states "A division is called for;" and rising says, "As many as are in favour of the resolution will show their *assent* by *rising*." The speaker then counts the persons standing up, and usually commences on his right: and after having ascertained the number, he says, "forty-five ayes," supposing that number to have been up. The speaker then says, "The gentlemen will please take their seats." He then says, "As many as are opposed to the passage of the resolution will show their *dissent* by *rising*." He counts those in the negative in the same way, and says "forty-two noes," or any other number as the case may be. If at this time, *before* the decision has been pronounced by the speaker, the *yeas* and *nays* should be required by any two members, in pursuance of the 1st art. of the constitution, sec. 15, the speaker takes his seat, and directs the clerk to call over the names of the members. Having performed this duty, the two clerks *compare* their tallies, and hand the vote to the speaker, who rises and says: "The clerks report, that they agree in their tallies, and that on agreeing to the *passage* of the said resolution, the yeas are 45, nays 44." "The resolution is therefore agreed to."

I have thus gone through, step by step, the questions that usually occur in the adoption of a *resolution*.

It is then the practice to "move, that when the *house adjourns*, it adjourns till to-morrow morning at ten o'clock, and that that be the standing

hour of meeting until otherwise ordered ;" which being agreed to, on motion the house adjourns.— In the case of a *motion*, it will be perceived, that the question is taken upon the proposition at once. It does not go through a *second* reading, as in the case of a resolution.

Of the Duties of the Speaker.

[*Rule 1.* He shall take chair at the hour to which the house shall have adjourned, and immediately call the members to order, and on the appearance of a quorum, shall cause the journal of the preceding day to be read, which may then be corrected by the house.]

The speaker of each house having resumed his chair, at the hour to which their respective houses stood adjourned, says, "The house will come to order." The members take their seats; he then casts his eye round the chamber to ascertain whether there is a quorum of members present; and having satisfied himself of the presence of a quorum, he announces, "There is a quorum of members present—the clerk will read the journal of yesterday." The clerk rises, and reads the proceedings of the former day.

As soon as the journal has been read by the clerk, it is in order to correct any errors, or supply any omissions that may appear upon the proceedings. Errors seldom, if ever, occur, as the clerks are gentlemen admirably qualified for their stations.

An intelligent and industrious clerk cannot be too highly prized by a legislative body. He expedites the *proceedings of the assembly*, saves members

immense trouble, is of great service to a newly elected speaker, and by a quickness of apprehension, in taking down amendments, or moulding suggestions made by members into a proper shape to be introduced as alterations into bills, which are under discussion, greatly economizes the time of the house.

[*Rule 2.* He shall preserve order and decorum, and in debate shall prevent personal reflections, and confine members to the question under discussion. When two or more members rise at the same time, he shall name the one entitled to the floor.]

It is always in the power of the speaker to prevent, to a very great extent, personal reflections, by promptly, yet in a decorous manner, informing a member, that he is out of order, and that such remarks cannot be tolerated. The great error consists in allowing the member to proceed too far, before he is checked, and then the gentleman to whom the remarks were intended to apply, demands it as a right to be heard. Mr. Speaker should stop, without delay, the first indication that may be evinced of the sort alluded to. By such conduct he saves the time and preserves the dignity of the house, while he manifests his qualifications to preside over its deliberations. If it is understood that the speaker will enforce this part of his duty,—the most delicate while it is the most important, members will be cautious in stepping across the threshold of propriety. The speaker will always find himself sustained by the house, *if he enforce the rules “without fear, favour, or affection.”*

[*Rule 3.* He shall decide questions of order.—An appeal from his decision may be made by two members; or the speaker may, in the first instance, submit the question to the house. On questions of order there shall be no debate, except on an appeal from the decision of the speaker, or on a reference of a question by him to the house, when no member shall speak more than once, unless by leave of the house; all decisions upon questions of order shall be noted by the clerk, and placed at the end of the journal of each session, with a reference to the decision as stated in the journal.]

The speaker should always decide questions of order himself. He is selected for his experience in legislative business, and ought not therefore to put aside a question to be decided in the first instance by the house. The great probability will be, that he will decide correctly, and save a considerable time, which would otherwise be lost in useless debate. And what takes a great share of weight from a decision by the house is, that usually a majority of the house is composed of new members, who are therefore for the *first* time called upon to settle a point of order—a matter to which they are almost total strangers—And as there is a praiseworthy disposition to support the chair, it is most probable that its decision will pass unquestioned. But if the speaker submits the question to the house primarily, he admits that he is not master of it, and thus puts a subject afloat, for a tedious discussion, that will not be more likely to be decided correctly by them than if he had decided it himself; besides which, calling upon the house to decide, on points of order, begets a distrust in his

judgment, and tends to encourage appeals, when he may decide what he feels confident is right. It is to the advantage of the house, as well as the speaker, that he should be considered well skilled in his duties, and need not be instructed.

[*Rule 4.* While the Speaker is putting a question or addressing the house, none shall walk out of or across the house, nor in such case, or when a member is speaking, shall entertain private discourse, nor while a member is speaking, shall pass between him and the chair.]

It is exceedingly annoying to be interrupted by persons walking in and out of the house, while the speaker is putting the question, or a member is addressing the House.

[*Rule 5.* The Speaker shall appoint the members of standing and select committees, unless otherwise ordered by the house.]

[*Rule 6.* Acts, addresses and joint resolutions shall be signed by the Speaker, and writs, warrants and subpoenas, issued by the house, shall be signed by him, and attested by the clerk.]

This is a rule a few years ago introduced into the code of regulations of the house. I remember, when speaker of the house of representatives, I looked into my authority to sign bills, as there existed no act of the legislature upon the subject, I found it was sanctioned by custom before I held the station of speaker, and of course signed the several enactments of the legislature, while I was the presiding officer of the house of representatives. In looking into the rules adopted immediately after the framing of our state constitution, in 1790, I find the following, offered by Mr. Gallatin, seconded by Mr. Evans:

Resolved, That when bills are engrossed, they shall be examined and compared with the transcribed bills, as passed in the two houses, and the errors that may be discovered in the engrossed bills, corrected in each house respectively in such manner as each house respectively may think fit.

2. **Resolved,** That after a bill shall be thus examined and compared in the house, in which such bill shall have originated, it shall be signed by the speaker of that house and transmitted by the clerk to the other house, where it shall likewise, after examination, be signed by the speaker, and returned by the clerk to the house in which the bill shall have originated.

3. **Resolved,** That after a bill shall have been thus signed and returned to the house where it shall have originated, it shall be presented by the committee appointed by such house to the governor for his approbation, it being first endorsed, certifying in which house the same did originate. The said committee shall report the day of presentation to the governor, which *time* shall be entered on the journal of the house.

4. **Resolved,** That all orders, resolutions and votes, which are to be presented to the governor for his approbation, shall also in the same manner be previously engrossed, examined and signed, and shall be presented in the same manner as is provided for in the case of bills.

Of Signing Bills.

The practice of signing bills has grown out of these resolves, and although they have not been transcribed into the body of rules, they have pro-

man says, he was "instructed to report it with amendments." When I became a member of the legislature in 1814, the practice was to ask if the amendment should be read over, on the bill being reported to the house. The question was always asked, but the reading of the amendments was never agreed to. To get rid of this practice, I offered a resolution, which is now embodied in the rules of the house, and is as follows :

[*Rule 30.* Amendments made in committee of the whole, shall not be read by the speaker on his resuming the chair, unless required by one or more of the members.]

On the first report being made, that the bill has been agreed to by the committee of the whole without amendments, the speaker says: "The chairman of the committee of the whole reports without amendments bill No. 1, on the files of the house of representatives, entitled," &c, or "with amendments." If the section is negatived, he says: "The chairman reports, that the committee have instructed him to report the first section negatived."

It not unfrequently occurs, that after a long debate, the committee is not able to get through the bill at the hour of adjournment, or for other reasons, it is deemed expedient that the committee should rise. Some member moves, "That the committee rise, report progress, and ask leave to sit again." The chairman then states the question; if seconded, and concurred in, the speaker resumes the chair and the chairman his place in the house, and makes the following report: "*Mr. Speaker,* The committee of the whole have had

ishment of a bank, to be located at Meadville, in the county of Crawford, to be called the Bank of Crawford." Having given this succinct account of his petition, he walks up to the speaker, hands it to him, and returns to his place. The speaker rises to receive the memorial, and holding it in his hand says: "A memorial has been presented, signed by a number of the inhabitants of Erie, Crawford, &c. (repeating the counties) the purport of which has been stated by the member who presented it." "It will be referred to the committee on banks." If, however, the memorial had prayed for the division of a county, there being no *standing* committee upon the "division of counties," as in the case of "Banks," the speaker, after having remarked that "The purport of the memorial had been stated by the gentleman who presented it," would have asked, "What order will the house take upon the memorial? The member presenting it will say: "Mr. Speaker, I move it be referred to a special committee." If seconded, the speaker then says: "It has been moved and seconded, that the memorial just presented be referred to a committee; will the house agree to the motion?" There being no objections, the speaker says: "It is agreed to." He then asks, "Of what number shall the committee consist?" The member says, "Three," three is named, and the speaker says, "as there are no objections to that number, the committee will consist of three. The committee are Messrs. A. B. C."

Suppose a member had, on a former day, presented a petition, and to-day wished to present a

document to support the prayer of that petition. He merely rises, and says, "Mr. Speaker, I present a document to support of the claim of —, an old soldier; his petition has been referred to the committee on claims." The member hands it to the Speaker, in the same manner as if it were a petition. And the speaker repeats, "a document has been presented in support of the claim of — an old soldier: it will be referred to the committee on claims."

Letters are usually sent under cover to the Speaker. He announces them as follows: "A letter addressed to the Speaker, signed 'A. B.' it will be read," and hands it to the clerk, who reads it. As soon as read, if it refers to a subject committed to a *standing* committee, the Speaker says: "it will be referred to the committee entrusted with that subject." If it is a special subject, and no motion is made to refer it, he says, "It will be laid on the table."

[2d. Original resolutions may be offered; items of unfinished business may be referred; leave of absence and leave to withdraw petitions and documents, may be asked; and motions to appoint additional members of committees may be made.]

Original Resolutions.

As to offering an original resolution, see the proceedings upon the resolution relative to the furnishing of newspapers to members of the house, page 77.

Items of Unfinished Business.

Items of unfinished business are disposed of in the following manner. Some subject of legisla-

tion has been partially acted upon at a former session, but for want of time or some other cause, was not finally disposed of. A member from a county interested in this matter finds, that on page 441, on the journals of the house, the subject remained unfinished. He therefore says: "Mr. Speaker, I move that an item of unfinished business to be found upon page 441, of the journals of the late house, relative to making an appropriation to improve the road between Harrisburg and the borough of York, be referred to a committee." The Speaker asks if the motion is seconded, and if answered in the affirmative, puts the question: "Will the house agree to refer the item to a committee?" No one objecting, he says: "It is agreed to; the committee are Messrs. A. B. C," always putting the mover first: for he is presumed to understand the subject. Sometimes twenty or thirty items are referred in a morning, and an expert Speaker will not always look to the page of the journal; but recollecting what is the nature of the item, refers it, without delaying the house, by looking either for the item or the page.

Leave of Absence.

The following is the mode of asking leave of absence: "Mr. Speaker, I have been requested to ask leave of absence for Mr. —, of the county of —, for a few days, from to-day." Sometimes he asks leave of absence for himself. The Speaker, rising, says: Mr. —, from the county of —, asks leave of absence for his colleague, Mr. —, for a few days, from to-day, Shall the

gentleman have leave? If the motion is agreed to, he says, Mr. — has leave.

Withdrawing Documents.

A member wishing to withdraw a petition and documents, says: "Mr. Speaker, I have been requested to withdraw the petition and documents of —, an old soldier," Mr. Speaker then says: "Mr. —, from the county of —, asks leave, &c. Shall he have leave?" "Aye." "He has leave to withdraw the petition and documents."

Additional members added to Committees.

A member rises and says: "As this is the proper time to make application to the house to appoint additional members to committees, I move Mr. Speaker, that two members be added to the five already appointed, to report upon the propriety of dividing Mifflin county." The Speaker states the motion, and puts it; and if it is agreed to, immediately names the two additional members.

Reports of Committees.

The Speaker says: "Reports of committees will be now in order.

[3d. Reports of committees may be made:

1. From standing committees.]
2. From select committees.

Reports are made as follows:

"The committee on claims report, That having duly considered the vouchers produced in favour of the claims of — to a pension, they are fully satisfied that he does not come within the class

of persons the state has heretofore granted relief to. They therefore offer the following:

Resolved, That the petitioner have leave to withdraw his petition and documents."

If the member who presented the petition upon which the committee here report, wishes for a few days delay, the chairman of the committee when the speaker asks what order shall be taken upon the resolution, says, "lie on the table." The speaker then says, "it will be laid on the table. But if no delay should be asked, the chairman of the committee of claims will move, "that the house proceed to the second reading and consideration of the resolution attached to the report —And the speaker puts the question, and the proceedings are the same as in the case of the newspaper resolutions, page 77. If the committee of claims however, should have come to the conclusion that the applicant was entitled to pension, the chairman would have made the following report: Mr. Speaker, the committee to whom was referred the petition and document of —, a revolutionary soldier praying for relief report a bill, entitled "An act for the relief of —, a soldier in the revolutionary war." Connected with this title is the section granting relief.

The speaker receives the bill from the chairman of the committee of claims, and says: "The committee on claims report a bill, entitled an act for the relief, &c."

A report from a select committee is made as follows:

The chairman, standing up in his place, says: "Mr. Speaker, The committee to whom was referred the petition of the administrators of John Jones, soliciting power to sell certain real estate, ask leave to report by bill." The speaker then says: "The committee mentioned by the gentleman in his place, ask leave to report by bill. Shall the committee have leave?" They answer him in the affirmative. The speaker says, "The member has leave." The member then rises, and makes the following report: "Mr. Speaker, on leave given, I report a bill, entitled an act authorizing the administrators of John Jones to sell certain real estate." He hands it to the speaker, who states to the house, "The committee mentioned by the member in his place, on leave given, report a bill," repeating the title. He hands the bill to the clerk, who puts its proper number upon it, as all private bills take order according to their number, which is marked at the time of their presentation to the house.

I have often thought it would be as well to allow all committees to report without putting the chairman to the trouble of "asking leave," or the speaker to the necessity of submitting so many questions to the house. To avoid in some measure, the inconvenience of putting separate motions for leave, it frequently happens, in the commencement of the session, that when a member moves that a petition of a special character should be referred to a committee, he adds the following words, "with leave to report by bill or otherwise." When this is the case, select or special committees report as if they were standing com-

mittees, leave having been granted them to do so, at the time of their appointment. Where, however, a select committee has agreed to report without a bill, for instance, against the proposition committed to their charge, they do so *without asking leave*. To a report, a resolution is always attached, either recommending that the committee be discharged from the further consideration of the subject, or that the committee be authorized to bring in a bill in conformity to the prayer of the petition. In either case, as soon as the clerk has read the report and resolution, the speaker asks, "What order will the house take upon the resolution attached to the report?" For further proceedings on resolutions, see page 80, on the resolution connected with the report of the committee on claims. It is, therefore, the *resolution* that is acted upon, and not the *report*. Sometimes, however, when a committee may wish to place their reasons upon some matter submitted to them, upon the journal, and yet leave the house little or nothing to act upon, they append a resolution of this kind: "That the committee be discharged from the further consideration of the subject."

To vote for or against such a resolution, by no means affords any just conception of the reasons of a member's vote; for the *whole house* may be willing to discharge the committee, and yet not for reasons contained in this report. To meet this difficulty, a member usually prepares what he calls a substitute, containing the reasonings of the opposition to the report, and ending with a resolution; and when the question comes before the house, he makes the following motion: "Mr.

Speaker, I move that the resolution, together with the report, (on the subject, stating it) be postponed, for the purpose of introducing the following, as a substitute ;" which motion, if seconded, the speaker states, and by this expedient the substitute is placed upon the journals with the original report ; and he thus obtains a vote thereon, expressive of the wish of the house.

Reports of Committees Amended.

During the session of 1823-4, a report was made upon an item of the governor's message relative to the choosing of electors of president and vice-president of the United States. The report was accompanied by a resolution requesting that the committee might be discharged from the further consideration of the subject. Many of the members said, that the report was not such an one as ought to be adopted by the house. That it was drawn up with the view of supporting the caucus system. On page 362, we find, on motion of R. Smith and Mr. Roberts, the house resumed the consideration of the *resolution* attached to the report of the committee, relative to changing the time and place of meeting of the electors of president and vice-president of the United States, postponed on the 5th instant ; when a motion was made by Mr. Todd and Mr. Holgate, That the house resolve itself into committee of the whole for the express purpose of "amending the *report*, so that it will contain no expression for or against either a congressional or state caucus ;" and on agreeing to the question, the yeas were 62, nays 26. So it *was determined* in the affirmative. Page 379, the

house resolved itself into committee of the whole, and the chairman reported the same with one amendment. Whereupon the house resumed the second reading of the report, and the *resolution* thereto attached was considered and adopted. And the *report* being under consideration, a motion was made by Mr. Norbury and Mr. Roberts, to amend the same by inserting after the word "public," in the fortieth line from the top of the 4th page, these words: "to maintain this principle seems to become a serious duty, whether it be assailed directly and openly, or by implication, and firmly to adhere to the example set by those who have gone before." These were the words that had been stricken out in committee of the whole. See the whole report, 339.

I have gone somewhat into a detail upon this question, to show, that here the legislature allowed the *report* to be amended in committee, and no objections were made as to Mr. Norbury's motion being out of order to amend the report when it was before the house on a second reading. In this instance, therefore, the report was reached without introducing a substitute, and will be a very good mode of correcting reports hereafter: for in this case the report was *every thing*, the *resolution nothing*; to pass upon the resolution was therefore a subject of no importance. Indeed I can see no good reason why a *report* to which a resolution is attached, should not be subject to amendment or correction in the same manner as preambles to bills.

[4th. Bills on third reading.]

speaker says, "The bill is before the house." "The question will be on its final passage." "Is the house ready for the question?" and being answered in the affirmative, he rises to put the question, and says: "As many as are in favour of the passage of the bill will say aye." "The contrary will say no." If the ayes have it, he will say, "The ayes have it. The bill passes." He hands it to the clerk, who notes the proceeding, makes the necessary endorsements, and as soon as he can conveniently leave the house, passes to the senate chamber, where the sergeant-at-arms announces: "The clerk of the house of representatives." The speaker repeats: "The clerk of the house of representatives," rising for that purpose: when the clerk, having advanced a short distance within the bar of the senate, says: "Mr. Speaker, I have been directed to present to the senate for concurrence, bill No. 1," entitled, &c. reading the title, and bowing to the speaker, retires. The speaker takes his seat and proceeds with the business of the senate, that was interrupted by the entrance of the clerk.

But if some small amendment is requisite to be made, or some important omission has been discovered, that only requires to be mentioned to be rectified, some one of the members rises and states it, and moves that it be amended, so as to remove the objection. The speaker asks if the motion is seconded, and having discovered that it is, he says, "It has been moved and seconded to amend the bill in section 2, line 4." He says, "This question must be unanimously agreed to, as no *amendments* can be received on a third reading

the decision, the speaker states: "It has been moved and seconded to reconsider the vote given on the 6th instant, relative to granting a lottery for the introduction of water into the city of Lancaster; as many as are in favour of reconsideration will say aye. The contrary will say no. The ayes have it. The reconsideration is agreed to." And the question recurring: 'Will the house agree to the resolution?' a motion was made that the house adjourn, which was agreed to.

This motion for adjournment was received in pursuance of the 23d rule, which prescribes that "a motion for adjournment shall *always* be in order, and shall be decided without debate, except that it cannot be received when the house is *voting* on another question, nor *while* a member is *addressing* the house. Page 67: "The house resumed the consideration of the resolution relative to the Lancaster lottery, which was pending when the house adjourned on the 7th inst. after which, (page 168,) a motion was made by Mr. Haines and Mr. Baker, to postpone the further consideration of the same until Thursday next, which was agreed to. Page 180, the consideration of the resolution postponed on the 10th inst. relative to the Lancaster lottery, was resumed: and on the question, 'Will the house agree to the resolution.' the yeas were 43, nays 41; so the motion was determined in the affirmative."

I have traced this resolution from the first vote when it was negatived, till its reconsideration and final adoption, that it may be illustrated by example, sufficiently striking to impress it upon the recollection of the reader. I have known many

instances where motions have been made to proceed to the consideration of a resolution, laid on the table on some previous day, and the house have refused to proceed. When this happens, persons interested in the resolution are not precluded, on some other day, making another motion to take up this resolution. Nor can he be prevented from making the motion every day, *at the time* when his motion is in order, until the house has taken up his resolution and finally disposed of it, by either voting for or against it. If a member, however, discovers that there is a decided majority against his resolution, he usually contents himself by making one decided effort to get it up, and if he feels anxious to show how he voted on the subject, and that he used his best exertions to carry it, and fails, he calls the yeas and nays and records his vote in favour of taking it up.

Bills.

[1st. Of bills. Those in which the house has made progress on a second reading.]

[2d. Those reported by a committee of the whole.

[3d. Those in which the committee of the whole has made progress and has leave to sit again.

[4th. Bills not yet considered in committee of the whole, shall be taken up.]

Every bill has a title, and one or more sections, and sometimes a preamble.

[*Rule 35.* Every bill shall receive *three* several readings in the house, the two last of which shall be at length, previously to its passage, but no bill shall be read twice in the same day; and all bills

and joint resolutions, after the first reading, shall be printed for the use of the members, unless otherwise ordered by the house, and shall be read in committee of the whole : public bills shall be made the order of a particular day, and shall, when called for, have the preference of private bills, which shall be taken up according to their seniority, reckoning from the date of their introduction into the house ; and when any bill shall be presented from the senate for concurrence, the Speaker shall determine, or the house may order upon the printing the same, and direct accordingly.]

[*Rule 29.* When the house resolves itself into a committee of the whole, the Speaker shall appoint a chairman, unless otherwise ordered by the house.]

[*Rule 28.* The rules and proceedings observed in the house, shall be observed as far as they are practicable in committee of the whole, except that a member may speak oftener than twice on the subject ; nor can a motion for the previous question be made therein.]

Public bills are such as are general in their operations, and relate to the whole state.

Private bills are local in their nature, and are such as are limited in their provisions to particular counties or districts. The Speaker generally determines whether a bill is public or private ; yet the house may determine a bill to be of either description, notwithstanding his opinion may be to the contrary. The Speaker, therefore, on a bill being presented by the clerk of the other house, or by a committee of the house of representatives,

will say, after reading the title, "this is a public bill," and asks: "What day will the house assign for its second reading and consideration?" A day is commonly mentioned by a member of the committee having the care of it; and if no objections are made to that day, the Speaker asks, "Shall the bill be in order for that day?" which being agreed to, he says: "It will be in order for that day." The clerk marks the day on the bill. Private bills the Speaker hands to the clerk, and he gives them their numerical order.

A private bill sometimes takes the preference of a public bill, as where the private bill has been progressed in on a former day, and comes up regularly in order. Motions are sometimes offered to make a bill the "first order" of a particular day. But making a bill the *first* order, gives it no preference, unless it be over bills that have not been acted upon; or if acted upon, have their order fixed for a distant day. I have made this remark here, because members are apt to believe that a first order takes the preference of all bills. It would be very unfortunate if it did, as it would greatly tend to derange the regular business of the house.

One of the modes devised to give a private bill what may be called "an order" in the house of representatives, is to move that the house resolve itself into committee of the whole, upon the bill, and as soon as the chairman has taken the chair, to get the committee to rise, report progress and ask leave to sit again, and a day will be assigned for the committee having leave to sit again. On *that day* the bill is an order.

Suppose a committee has been appointed and reported the following bill, No. 1, entitled, "An act to incorporate the Pennsylvania Infirmary for diseases of the eye and ear." At the time this bill is presented to the speaker, by the chairman of the committee, he states that "the committee for that purpose appointed report bill No. 1." (repeating the title.) The reading of the title is the first reading of the bill. This is so well settled a practice in the Pennsylvania legislature, that if a member should require the clerk to read the body of the bill at the time it was reported, he would be considered as uselessly wasting the time of the house. The bill being handed to the clerk, he immediately numbers and sends it to be printed. As soon as printed it is returned to the house, and without delay placed upon the file of bills. Having thus disposed of all the preceding matters, and bill No. 1. being now in order, the speaker, opening his file of bills, says, "The next business in order is the consideration of bill No. 1, entitled," &c. reading the title. Having gone through the title, he says, "As many as are in favour of proceeding to the consideration of the bill, will say aye," and reversing the question, he says, "as many as are opposed to it will say no." If the ayes have it, he will say, "the ayes have it. It is agreed to." He then calls one of the members to the chair, by saying, "Mr. — will please to take the chair." Mr. — immediately leaves his seat, carrying with him his file of bills, and walks up to the speaker's desk, and as Mr. — is ascending the steps on one side of the chair, Mr. Speaker is descending the steps on the other side;

and having politely bowed to each other, the chairman takes the vacant chair, and the speaker retires to the seat of the member called to officiate as chairman, or any other vacant seat. The chairman, being thus possessed of the speaker's station before he takes his seat, reports as follows : "The committee of the whole have referred to them bill No. 1, entitled," reading the title throughout ; he then says, "the first section will be read." The clerk then stands up in front of the speaker's desk, now occupied by the chairman, and reads the first section.

As soon as he has finished reading, the chairman says, "The first section is before the committee." This he does sitting. Indeed all questions are usually stated by the presiding officer sitting. If there are no objections urged against the section, he asks, "is the committee ready for the question ?" and being answered in the affirmative, rises and says, "As many as are in favour of the section will say aye." "The contrary opinion no." If the ayes have it, he will say, "the section is agreed to." He then says, "the second section will be read." The clerk reads it in the same manner as the first : and when done, the chairman says, "The second section is before the committee." If he has discovered that there are no objections to the bill, instead of putting the affirmative and negative, he merely asks, "Will the committee agree to the second section ?" If the bill has but two sections, as soon as the second section has been read and considered, the chairman states : "The bill is gone through." But if the bill should *have* a preamble attached to it, in that case, the

preamble must be read, and the question taken on it before the committee rises. The preamble being disposed of, the chairman says, "the committee will rise." The preamble is always read *after* the sections have been passed. The speaker then proceeds towards the desk, and as he is ascending on one side, the chairman retires on the other, and again they bow to each other. The speaker having now resumed his place, but not having taken his seat, and the chairman having retired to his own desk, standing in front of it, makes the following report: "Mr. Speaker, the committee of the whole have had under consideration bill No. 1, upon the files of the house of representatives, entitled 'An act,' (repeating the title,) and have instructed their chairman to report the bill without amendment."

Suppose the bill in question had but one section, and the committee had disagreed to the section; then the report would have been as follows: "Mr. Speaker, the committee of the whole have had under consideration bill No. 1, &c. (repeating as in the other case,) and have instructed their chairman to report the *first* and only section negatived."

Suppose there were more than one section, but that all the other sections were dependent upon the passage of the first, and that section was negatived: the committee would rise, without going any further than the first section, and the chairman would report the first section negatived.

But suppose, instead of agreeing to the 1st and 2d sections of the bill, both sections had been amended in committee. In that case, the chair-

man says, he was "instructed to report it with amendments." When I became a member of the legislature in 1814, the practice was to ask if the amendment should be read over, on the bill being reported to the house. The question was always asked, but the reading of the amendments was never agreed to. To get rid of this practice, I offered a resolution, which is now embodied in the rules of the house, and is as follows :

[*Rule 30.* Amendments made in committee of the whole, shall not be read by the speaker on his resuming the chair, unless required by one or more of the members.]

On the first report being made, that the bill has been agreed to by the committee of the whole without amendments, the speaker says: "The chairman of the committee of the whole reports without amendments bill No. 1, on the files of the house of representatives, entitled," &c. or "with amendments." If the section is negatived, he says: "The chairman reports, that the committee have instructed him to report the first section negatived."

It not unfrequently occurs, that after a long debate, the committee is not able to get through the bill at the hour of adjournment, or for other reasons, it is deemed expedient that the committee should rise. Some member moves, "That the committee rise, report progress, and ask leave to sit again." The chairman then states the question; if seconded, and concurred in, the speaker resumes the chair and the chairman his place in the house, and makes the following report: "Mr Speaker, The committee of the whole have ha

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under consideration bill No. 1, upon the files of the house of representatives, and not having had time to go through the same, have instructed their chairman to report progress and ask leave to sit again." The speaker then says: "The committee of the whole have had under consideration bill No. 1, entitled, &c. and not having had time to go through the same, have instructed their chairman so to report and ask leave to sit again;" he then says, "The question will be, on granting the committee of the whole leave to sit again." If there appear no objection, he will ask: "Shall the committee of the whole have leave to sit again?" when, if agreed to, he will say: "At what time?" the answer may be "to-morrow," "next Thursday," or "this day two weeks," or any other day. The speaker then says: "To-morrow," "next Thursday" and "this day two weeks" have been named. The question will be on the most distant day. As many therefore as are in favour of this day two weeks, will say, Aye. The contrary opinion will say, No." If the ayes have it, he will say so, and observe, "The committee of the whole will have leave to sit again on this day two weeks." The clerk marks the day upon the bill, and the journal is made up accordingly. But suppose the object of the members who succeeded in getting the committee of the whole to rise, should be, to get the bill before the house, and prevent the extensive debate, that it was likely to undergo in committee of the whole, where a member may speak as often as he pleases, and consume a number of days in discussion. In that case, when the question is put by the speaker

"Shall the committee of the whole have leave to sit again?" they will vote against the committee having leave; and if they succeed in their opposition and the committee should be refused leave to sit again, the bill comes up immediately before the house on a second reading. The house seldom proceeds upon a second reading of the bill immediately, unless in a case of emergency, as in a revenue bill or the like, and the close of the session is rapidly approaching. It is most customary to postpone the further reading of the bill till next day.

Page 913, Journal 20, 21—I find the following:

In the evening the house resumed the second reading of bill No. 234, entitled, a supplement to the several acts of the general assembly respecting auctions and auctioneers:—when the speaker submitted the following question of order to the decision of the house, viz: "Shall the amendments made in committee of the whole be considered as a part of the bill? the committee having reported progress and asked leave to sit again, and the house having *refused* to grant *leave*." The yeas and nays were required by Mr. Forward and Mr. Good, on the question, and are as follows yeas 51, nays 33.

Mr. Speaker Gilmore voted in the negative and correctly. But his mistake was, in not *deciding* at once, that the amendments made in committee, when the committee reported progress, did not belong to the bill, as they never had been reported to the house. The bill stood before the house on a second reading in this instance, as i

it never had been in committee. What makes this case of still less authority is, that it was decided in the evening, and on a revenue bill, when there seemed to be more anxiety to get the bill through the house, than to adhere to the old landmarks of order. This proceeding took place on the evening of the 25th of March, and the legislature adjourned on the 3d of April.

When the chairman of the committee of the whole reports the first section *negatived*, or the bill negatived, or the like, the speaker, after repeating that he reports the bill negatived, puts this question: "Will the house agree to the report of the committee?" And if it is decided in the affirmative, the bill is lost. If the report of the committee should be disagreed to, then the bill comes before the house upon a *second reading*. This occurrence seldom takes place. Where the bill has been negatived in the committee, the most ordinary practice is, to move to postpone the question of agreeing to the report of the committee *negating* the bill, for the present; which motion, if carried, is rarely, if ever disturbed; and the bill is in this way thrown out of the further consideration of the house. A member may, it is true, make an attempt to reconsider the motion within the six days allowed for that purpose; and if he finds the vote nearly balanced, he may possibly gain some proselytes to his interest in that time, and may therefore endeavour to have the report of the committee disagreed to, and thus have the bill again before the house.

An error that new members are likely to fall into, is the belief, that the reading in committee of

the whole is one of the three readings contemplated by the rules of the house. They sometimes, also, request the yeas and nays, which cannot be called in committee.

An old member turns all the rules of the house to advantage, while a new one, whatever may be his talents, approaches every subject connected with the rules, hesitatingly. A careful examination of what I here lay down for his guidance, will however enable him without fear to obtain all the advantages resulting from an intimate knowledge of the rules.

Bill No. 1, entitled, &c. having been reported, goes over to the next day, when it comes up for a second reading, in the order which is announced by the speaker. I should here remark, that it is in order, if a member thinks proper to propose it, and a majority of the house sustain him, to proceed upon the second reading of the bill as soon as the speaker has gone through the report made by the chairman. This is the practice near the close of the session, when business is crowding upon the consideration of the house. The time having arrived for the second reading on the succeeding day, the speaker says: "The business next in order is the second reading and consideration of bill No. 1, upon the files of the house of representatives," (reading the title.) The speaker then says: "As many as are in favour of proceeding to the second reading and consideration of bill No. 1, will say aye." "The contrary will say no." If the ayes have it, the speaker says: "It is agreed to. The first section will be read." The clerk then reads the section, as was

done in committee of the whole, and the questions are taken in the same way. Having gone through all the sections, the speaker then says: "The title will be read." The clerk then reads the title. The speaker says: "The title is before the house." "As many as are in favour of the title will say aye." "The contrary opinion will say no." The title being agreed to, the speaker then says: "This bill has now been read a second time, considered and agreed to; the question will be on transcribing it for a third reading." "As many as are in favour of transcribing the bill for a third reading, will say aye." "The contrary opinion will say no." If a majority should be in favour of the bill, the speaker will say: "The question is agreed to. The bill will be transcribed for a third reading."

On the next morning it will come up in its proper order; when the speaker will say—"the next business in order is the third reading of bill No. 1," reading its title. No question is put to know whether the house will proceed to the reading of it: but as soon as the speaker has read the title to the house, he will say, "The clerk will read the bill; and this is done from the beginning to the end, without a question being put upon any of its sections. During the time the clerk is reading the transcribed bill, the speaker is carefully examining the printed bill, which was directed to be transcribed by the house on the preceding day, to detect errors, if any may have been committed in transcribing. If any are discovered, he stops the clerk, and orders them to be corrected. As soon as the bill has been read by the clerk, the

speaker says, "The bill is before the house." "The question will be on its final passage." "Is the house ready for the question?" and being answered in the affirmative, he rises to put the question, and says: "As many as are in favour of the passage of the bill will say aye." "The contrary will say no." If the ayes have it, he will say, "The ayes have it. The bill passes." He hands it to the clerk, who notes the proceeding, makes the necessary endorsements, and as soon as he can conveniently leave the house, passes to the senate chamber, where the sergeant-at-arms announces: "The clerk of the house of representatives." The speaker repeats: "The clerk of the house of representatives," rising for that purpose: when the clerk, having advanced a short distance within the bar of the senate, says: "Mr. Speaker, I have been directed to present to the senate for concurrence, bill No. 1," entitled, &c. reading the title, and bowing to the speaker, retires. The speaker takes his seat and proceeds with the business of the senate, that was interrupted by the entrance of the clerk.

But if some small amendment is requisite to be made, or some important omission has been discovered, that only requires to be mentioned to be rectified, some one of the members rises and states it, and moves that it be amended, so as to remove the objection. The speaker asks if the motion is seconded, and having discovered that it is, he says, "It has been moved and seconded to amend the bill in section 2, line 4." He says, "This question must be unanimously agreed to, as no amendments can be received on a third reading

without the consent of the whole house." He puts the question: "Will the house agree to the amendment?" If no one objects, he says, "The amendment is agreed to." The question on the passage of the bill will then recur. But it not unfrequently happens, that a whole section is very objectionable, or many parts of the bill, and that some of the members are desirous of making one more effort against the passage of the bill in its present shape, and it having been shown that no amendments can be made upon a third reading, unless unanimously approved of, an expedient has long been in use of reaching the object in another shape: and that is by making a motion that the house resolve itself again into committee of the whole, for the purpose of striking out section *two*, if that be the only one not approved of; or if the bill is thought to be defective in many points, it is moved that the house resolve itself into committee of the whole, for the purpose of "general amendments." And if this motion should succeed, the speaker calls the former chairman, if present, if not another one, to officiate in committee of the whole. And the sections are all read as formerly, and the question taken upon them generally, or such sections as are not disapproved of need not be read, but only those where amendments are intended to be offered, or where whole sections are disliked, they are read, that they may be passed again or rejected by the committee. If the house should, however, go into committee for a special purpose, as, for instance, to strike out the second section, the moment that question is decided, the *object of the commitment* is at an end,

and the committee must rise. If when the bill is committed to the committee of the whole for general amendments, and no amendments are made the committee rises, and the chairman "reports the bill as committed." If amended, he "reports the bill with amendments:" and if the second section should be stricken out, he "reports the bill with one amendment." The question then presents itself again upon the bill as originally before the house, or as amended, and the question is on final passage.

Having traced the bill into the Senate, I will now show its progress there. The Speaker embraces the first opportunity, after having disposed of what was pending before the Senate, of rising and stating, "A bill, No. 1," (holding it in his hand,) is presented for concurrence from the house of representatives, entitled 'An act,' (reading the title.) The bill is then handed to the clerk, who sends it to the printer. As soon as it has been printed, the sergeant-at-arms puts the bill upon the files of the Senate. There are two files of bills: the one containing the *Senate* bills, the other the *House of Representatives* bills. Every member in each house has therefore two files. When bill No. 1 was printed in the house of representatives, a sufficient number was stricken to supply the members of both houses. Bill No. 1, therefore, was on the file of bills of the house of representatives belonging to every senator, before it was sent to the senate for concurrence. Bill No. 1, therefore, passed the house of representatives, just as it was originally printed in the house, it will be unnecessary for the clerk of the

senate to send it to be re-printed : but what is most usual is that the bill has been amended, and therefore must be reprinted, unless the amendment may be too trivial to authorize the expense. Suppose then it should be re-printed. The clerk lays it upon the Speaker's table, in company with the other bills that may have been sent from the house of representatives for concurrence. And the Speaker, just before the adjournment in the morning, (he can do it at any time, however,) rises and says : " Bill No. 1, from the house of representatives, upon which no order has been taken ; what day will the house assign for the second reading of this bill ? " Tuesday next, says some one of the senators. " No other day being mentioned," (the Speaker says,) " it will be in order for that day." In this manner he disposes of all other bills.

The day having arrived when the bill comes up in the regular order, the Speaker puts the same question as the Speaker of the house of representatives. After observing that the next business in order is the consideration of bill No. 1, (reading the title,) he asks if the house will proceed to the consideration of it ; which being determined in the affirmative, he calls Mr. A. to the chair. The Speaker in the senate always calls the senators *alphabetically* to the chair. The proceedings are the same in the senate on the bill as in the house of representatives.

The bill having gone to a third reading, it passes over till the next day, when it comes up in order for its final passage. The clerk having read the bill, as in the house of representatives, the

Speaker says : - This bill originated in the house of representatives, it has now been read a third time in the senate. The question will be on its passage. As many as are in favour of its passage will say *Aye*, the contrary, *No*. It is agreed that the bill passes."

If bill No. 1, received any amendments in the senate, the clerk of the senate returns it to the house in which it originated, and is received by the sergeant-at-arms, who announces, "The clerk of the senate;" the Speaker repeats, "The clerk of the senate," and the clerk states: "Mr. Speaker, I have been directed to inform the house of representatives that the senate have passed bill No. 1, upon the file of the house of representatives, (reading the title,) with amendments in which the concurrence of this house is requested." The Speaker of the house states: "That the clerk of the senate informs the house that bill No. 1, entitled, &c. has been concurred in by the senate, with amendments, in which the concurrence of this house is requested. Having laid the bill and amendments on the table, at a convenient time, the Speaker rises and says: "Amendments by the senate to bill No. 1, upon the file of the house." The clerk then reads the amendments. "Add two new sections, as follows (reading them,) to be called Sec. 6 and 7; number the other sections accordingly." The Speaker then asks: "What order will the house take upon the amendments?" It is then moved and seconded, that the house proceed to the second reading and consideration of the amendments, which being agreed to, the amendments are

either read, or the reading dispensed with upon a motion made for that purpose. As soon as read, or the reading has been dispensed with, the Speaker says: "What order will the house take upon the amendments?" A motion is then made to concur; if this motion is agreed to, information is immediately carried to the other house, that the house of representatives concurred in the amendments made by the senate. If, however, the house should be unwilling to concur, and the vote should have been against concurring, or if the motion had been "to non-concur," and that motion had prevailed; in that case the clerk of the house would return the bill with the amendments to the senate. After being duly announced by the sergeant-at-arms and the Speaker, the clerk would say: "Mr. Speaker, I have been directed to inform the senate, that the house of representatives have 'non-concurred' in the amendments made by the senate, to bill No. 1, from the house of representatives, entitled, &c." In former times the houses used to proceed so far as to adhere, but of late years it has not been the practice to proceed further than to insist. But, it may so happen that the amendments sent by the senate can be so amended by the house of representatives, as to meet the approbation of that body. In such case the following motion should be made: "Mr. Speaker, I move that the amendments made by the senate to bill No. 1, entitled, &c. be amended by striking out all that follows the word "four" in the fourth line, to the word "and" in the sixth line in the first amendment of the Senate, and insert the

following. (here insert what may be required,) and also to strike out all that follows the word "ten," in the ninth line of the second amendment of the senate, to the end of the section." The motion being seconded, the Speaker says: "Will the house agree to the amendments?" If agreed to, he says: "The amendments are agreed to." He then asks if the house will agree to the amendment of the senate as amended? If it is agreed to, the clerk repairs to the senate, and informs that body that he is instructed to inform the senate that the house have agreed to the amendment made to bill No. 1, entitled, &c. with an amendment, in which the concurrence of the senate is requested.

If the senate should concur in the amendments made by the house of representatives to the amendment by the senate, the clerk informs the house of the concurrence. But where the amendments have been non-concurred in by the house of representatives, and the information of such non-concurrence has been given to the senate the next step is for some member to move that the senate *insist* upon their amendments—or, that the senate *recede* from their amendments. If the senate should, by a majority of votes, *insist*, the clerk informs the house of the senate's *insisting* upon their amendments. If, however, the motion to *recede* from their amendments had been made and that motion had prevailed, the Speaker states "The motion to *recede* has been agreed to." The clerk carries the intelligence of the senate's having receded, and addresses the Speaker of the house as follows: "Mr. Speaker, I have been di

ected to inform the house of representatives that the senate have receded from their amendments made to the bill No. 1, entitled, &c." The speaker of the house rises, and repeats the report. Here the bill would be considered as passed by the two houses, and should be handed over to the comparing committee. But if the senate should not *recede*, but *insist* upon their amendments, the bill is returned, and the house is informed of the senate's having insisted, and that A B and C have been appointed a committee of conference by the senate. As soon as the speaker repeats the report of the clerk of the senate, a motion is made in the house of representatives to recede from its non-concurrence in the amendments made by the senate. If this should be made and fail, or if a motion to recede had not been made, then it is customary to move that a committee of conference be appointed, to confer with the committee appointed by the senate upon the amendments pending between the two houses. As soon as this motion is agreed to, the speaker appoints a committee, usually three, who must have voted in favour of non-concurring in the amendments. The clerk of the house informs the senate, that that house has appointed a committee of conference to confer with the committee appointed by the senate. The two committees fix upon a time and place of meeting. There they suggest such modifications as the several parties may think most likely to compromise and settle the difficulties. If they cannot agree, they report their disagreement to the house, and thus the bill is lost. If the committees of conference agree on a report, they make it sepa-

TABLE" in each house, and recommend that it should be adopted. When both houses adopt the reports, then the bill is handed to the comparing committees. Sometimes the senate concurs in the report made by their committee, and the house follows in adopting the report of their committee. When that happens, it is equivalent to the rejection of the bill. To exemplify the proceeding in reference to amendments and committees of conference, I have extracted the following from the journals of the house for 1820-21, page 987.

The clerk of the senate informed the house of representatives, that the senate had receded from their non-concurrence in the amendments by the house of representatives, viz. sections 57, 58, and 59, line 12, to bill No. 360, entitled "An act for the regulation of the militia of this commonwealth," and insist on their non-concurrence in the amendments to section 38, and striking out section 55, and have appointed Messrs. Hill Barnard, and Marks, a committee on the part of the senate, to confer with a committee of the house of representatives, (if the house should appoint a committee,) on the subject of said amendments.

A motion was made, when this report was read in the house of representatives, by Mr. Weaver seconded by Mr. Piper, that the house reced from the amendment to section 38 of the bill relative to the militia, from the senate, No. 360 non-concurred in by that body: which was agreed to.

The only remaining subject of difference between the two houses, was, upon the adoption of the 55th section. The house wished to strike thi

section out of the bill, and the senate was anxious to retain it.

The senate having appointed a committee of conference, it now remained for the house either to refuse to appoint a committee, and thus defeat the bill, or what I have always found to be the case, while I was in the legislature, to appoint a committee of conference.

Mr. Lawrence, seconded by Mr. W. Smyth, moved that a committee of conference be appointed to confer with the committee already appointed by the senate, on the subject of the amendments by the house of representatives to the militia bill non-concurred in by the senate, striking out the 55th section, which was agreed to. Whereupon Messrs. Lawrence, Todd and Robbins, were appointed the said committee, and ordered that the clerk inform the senate of the same.

Page 993. Mr. Lawrence, from the committee appointed to confer with a similar committee of the senate on the subject of the amendment to the bill from the senate, No. 360, entitled "An act for the regulation of the militia of this commonwealth," made report, which was read as follows, viz :

The committee of conference have agreed to the following resolution, viz :

Resolved, That the 55th section of the said bill pass with the following amendments, viz : line 12, after the word 'to' insert 'or shall.' Line 13, strike therefrom the words 'directly or indirectly.' Lines 14 and 15, strike therefrom these words : 'or shall under any pretence whatsoever invalidate or defeat or *shall assist to* defeat any sentence of a

court of appeal or court martial.' Line 36, strike out all that follows the word 'state' to the end of the section.

And on motion, said report was read a second time, and the resolution thereto attached was considered and agreed to. And the clerk was ordered to inform the senate of the same. The committee of conference on the part of the senate, made a similar report, which was concurred in by that body, as appears from page 1005 of the journal, "The clerk of the senate informed the house, that the senate had adopted the report of the committee of conference on the the subject of the amendment to bill No. 360, entitled 'An act for the regulation of the militia of this commonwealth.'"

Sometimes the one or other of the committees agree to a report, that the house they represent should recede altogether. When that is the case, the following is the form: Mr. Read, from the committee of conference appointed to confer upon the amendments by the house of representatives non-concurred in by the senate to the bill No. 123, entitled 'A further supplement to an act entitled an act for holding special courts of Common Pleas,' made the following report, viz. that they recommend that the house of representatives recede from their amendments to bill No. 123, on the files of the house of representatives, non-concurred in by the senate, and therefore offer the following resolution:

Resolved, That the house recede from their amendments to bill No. 123, non-concurred in by the senate.

Upon the subject of conferences between the

houses, and to show the extent to which concessions have gone, I would call the attention of the reader to the proceedings of a committee upon a bill entitled "an act to establish the District Court for the city and county of Philadelphia," 146, journal of the senate, for 1824-5. All objections of this bill were agreed to, except the 11th, which the house of representatives wished stricken out. The senate insisted upon retaining it, and a committee of conference was appointed, and they agreed to recommend that the houses should adopt the 9th section with amendment, and to add a new section, to be called section 10, and to make section 9 read section 11 and section 10 read section 12. The houses concurred in both amendments, and the conference in this instance proceeded further than I ever known before, for they introduced an additional section.

On the reports of the committees of conference have been concurred in, as for instance in the case of the bill "regulating the militia of this Commonwealth," and the clerk has amended the bill in accordance with the amendments of the conference and the amendments of the two houses, it is handed to the printing committee appointed pursuant to the order of the house. That committee carefully examines over the engrossed bill and compares it with the printed one and its amendments, to see that no mistakes or inaccuracies have crept into the printed copy. This engrossed bill goes through three readings, to prevent errors in copy, before it is signed by the speakers. The printing clerk reads it. The speaker of the

house in which the bill originated, on its final passage, follows the clerk while he reads it; and the comparing committee read it also. During the whole time I was a member of the Legislature, I never knew but one mistake to pass the committee: and in the instance I allude to, it finally rejected the signature of the governor. It was an amendment relative to the qualifications of persons eligible to be inspectors of the Penitentiary in Philadelphia.

As soon as the committee have examined and found the engrossed bill correct, they hand it first to the speaker of the house of representatives, who signs it. They afterwards present it to the speaker of the senate, who also signs it. It is then carried by the comparing committee, one member of each house, for each house has its comparing committee, and they jointly perform their duties, who present the bill to the governor for his approbation, pursuant to the 23d section of the 1st Article of the Constitution.

Page 1010, Mr. Kelton, from the committee appointed to compare bills and present them to the governor for his approbation, made report, which was read as follows, viz: "That in conjunction with a similar committee from the senate, they have compared, and on this day presented to the governor for his approbation, the bill entitled as follows, viz: 'An act for the regulation of the militia of this commonwealth.'" The committee keeps a book, in which they register the titles of all the bills, and the day when presented to the governor, so as to know whether they are returned in time, agreeably to the Constitution.

If the governor has no objections, as in this instance, he directs the secretary of the commonwealth to return it, with his approbation, in writing, as follows: "To the senate and house of representatives of the commonwealth of Pennsylvania. Gentlemen,—I have this day approved and signed the following act, and directed the secretary of the commonwealth to return the same to the house in which it originated, viz: 'An act for the regulation of the militia of this commonwealth.'"

By the 24th section of the first article of the constitution, it is directed, that "every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on a question of adjournment,) shall be presented to the governor, and before it take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill." The provision relative to *resolutions*, that are *concurred* in by both houses, requiring the *signature* of the governor, is subject to some limitation. There are many *joint* resolutions that are never presented to the governor for his approbation. The construction put upon this section of the constitution is, that the resolution must be in the *nature of a law*, and not one appertaining to the two houses only, that invariably requires the concurrence of both houses.

As to the powers of the legislature, under resolutions of the two houses, without being presented to the governor for his approbation, see the journals of the senate and house of representatives,

for the session of 1821-22, relative to the election of a United States senator.

Having thus expressed my opinion upon the resolution, it will be expedient to mark, upon the proceedings of the governor to the legislature in case he should have the "militia bill" within ten days, (Subjected,) to the house in which it originated his objections. The objections are to be laid at large upon the journals, and the house proceed to *reconsider* it. Here a question has been raised, whether the *reconsideration* should be *forthwith*, and it has been decided, that it need not proceed *immediately*. In 1821 page 1157 of the Journal of the House of Representatives,) the governor returned with the bill entitled "An act to provide for the election of representatives of the people of the state in the congress of the United States." with the objections were laid on the table and *reconsideration* postponed until the after

The bill "supplementary to the act in relation to the Roman Catholics worshipping at St. Mary's church, in the city of Philadelphia" was returned by the governor without comment, and was *postponed for reconsideration* the next day. If after the reconsideration, the majority of that house shall agree to pass the bill, it shall be sent with the objections to the other house, where likewise it shall be reconsidered: If approved by two-thirds of that house it shall become a law. But in such cases the votes of both houses shall be determined by *yeas* and *nays*, and the names of the persons voting for or against the

be entered on the journals of each house respectively. If any bill shall not be returned within ten days (Sundays excepted,) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return, in which case it shall be a law, unless sent back within *three* days after their next meeting. If the bill should be passed by two-thirds in both houses, it is signed and attested by the clerks. It is evident, therefore, that the senate and house of representatives are invested with the whole legislative power of the state. It only requires that two-thirds should concur in any enactment to give it the force and validity of a law. The same two-thirds can remove the judges by impeachment who should declare it unconstitutional. I have thrown out these few observations, to manifest how clearly it was the intention of the framers of the constitution, that the supreme power of the state should be vested in the legislature, and that the judges, in expounding legislative enactments, will see that whatever might be their construction of the constitution, the people have vested their representatives with a supervisory power over them, to correct them, or to remove the judges, if they deem it expedient.

The bill being now signed by the governor, and returned to the house in which it originated, the chairman of the comparing committee lodges it in the office of the secretary of the commonwealth, where it remains. The laws are printed every session, and the copy is taken from the act, thus placed in the archives of the state. The practice

is the same as to a resolution. Governor Shulze had a *resolution*, fixing the residence of the attorney-general at Harrisburg, at the session of 1826-7, presented to him for his signature, but it not having been presented ten days *before* the rising of the legislature, he detained it, and sent it back signed, within the *three* first days of the next session; if he had not returned it within the *three* days, it would have been valid without his approval.

Of Privileged Questions.

[*Rule 22.* No business regularly before the house shall be interrupted except by a motion

For adjournment,

For the previous question, namely, "*shall the main question be now put?*"

For postponement,

For commitment,

Or for amendment.]

[*Rule 23.* A motion for adjournment shall always be in order, and shall be decided without debate, except that it cannot be received when the house is voting on another question, nor while a member is addressing the house.]

The Previous Question.

[A motion for the previous question shall preclude amendment and discussion of the original subject; but the previous question shall not be moved by less than twelve members rising for the purpose, and shall be decided without debate.]

A resolution had passed the house of representatives relative to the employment of counsel to

attend to a certain suit in the United States court, in which the state was interested. The resolution was presented to the senate, where it was so amended as to direct that the attorney-general should thereafter reside at Harrisburg, that he might give the necessary information to the different departments, and generally to superintend all the law interests of the commonwealth. This amendment was sent to the house of representatives for concurrence on the afternoon of the last day of the session, when motions to "non-concur," "amend," "postpone for the present," "postpone indefinitely," were severally made; and it being discovered, that if any further time should be allowed to the opposition, the amendment from the senate would not be concurred in, as it was then late in the afternoon, the previous question was therefore called, which was done by the following persons rising and requiring the question, viz: Messrs. Burden, Pearson, Lawson, J. R. C. Smith, Bonner, Dunlap, Woolverton, Shannon, Cunningham, P. Stephens, Matheson, and Overholzer.

The clerk having taken down the names of the members who remained standing for that purpose, and having reported to the Speaker, that twelve, the proper number according to the rule, were up, the Speaker stated the question: "Shall the main question be *now* put?" And the yeas and nays being called, it appeared there were 33 yeas, 21 nays. So the question was determined in the affirmative. When the previous question was called, the motion *then* before the chair was, "To postpone the question of concurring in the amendment made to the resolution by the senate, inde-

finitely." It having, however, been decided that the main question should be put, and the "main question" being "to concur in the amendment from the senate," the Speaker asked: "Will the house concur in the said amendment?" And yeas and nays being required, were as follows: for concurring 32, against concurring 24. So the amendment was concurred in. This is a brief but perfect outline of the proceedings upon a question for the previous question.

Of Postponement.

[A motion for postponement shall preclude commitment. A motion for commitment shall preclude amendment or decision on the original subject.] A motion may be made to postpone a question "for the present." This motion may be amended by fixing a definite day, either within or beyond the session; or it may be amended so as to read to "postpone indefinitely." Where different days are mentioned, the rule is, that the question shall be first put on the most distant day.

Sometimes bills are indefinitely postponed, together with amendments. At the session of the legislature of 1826-27, a bill passed the senate relative to the pilots of the bay and river Delaware—and in the house, the bill was agreed to with a *verbal* amendment.

The bill with the amendment was returned to the senate for concurrence, and a motion was made to postpone the amendment together with the bill indefinitely. It was contended, that as the house had agreed to the senate bill with the amendment, all that the senate could do, was

concur" or "non-concur" in the amendment—
ut that they could not touch the bill itself. The
mendment, together with the bill, was however,
definitely postponed.

Three or four instances were shown, in which
e legislature had postponed bills similarly situ-
ted, and the senate relied upon the precedents to
ustain them. It is now too late to disturb the
ractice ; but certainly it is not based upon any
hing like system or regularity in legislative pro-
ceedings.

Of Committee of the Whole.

[*Rule 28.* The rules and proceedings observed
a the house, shall be observed as far as they are
racticable in committee of the whole, except that
member may speak oftener than twice on the
object ; nor can a motion for the previous ques-
ion be made therein.]

In addition to the right which a member has to
peak as often as he pleases, in committee of the
hrole, there are other advantages derived from
t. Amendments made in the committee are not
serted upon the journals, which not only saves
great deal of printing, but much labour to the
lerk in journalizing. It is true, whatever amend-
ments are made in committee may be stricken out,
n second reading, in the house, or any sections
at have been stricken out in committee, may be
oved as amendments on a second reading in the
ouse ; and the amendments that may be offered,
hether they carry or are lost, must appear on the
urnals, unless dispensed with by motion, and
at motion must carry *unanimously*. These ef-

forts to amend upon a second reading, are, however, never made, unless the members making them, believe that they ought to appear on record for their own justification. In general, however the great body of amendments made in committee are not offered in the house, upon a second reading.

A quorum in committee is the same as a quorum in the house. It sometimes happens in evening sessions towards the time of adjournment, that when a bill is in committee, a quorum of members is not present. When the chairman is notified of this fact, or by counting discovers the deficiency he stops further proceedings, observing, "there is not a quorum present;" and if the absent members do not appear, the committee rises, and the chairman reports the fact to the house. The speaker immediately sends the sergeant-at-arms in search of the absentees, and a quorum is usually obtained; if not, the house adjourns. If, however in the morning or afternoon a quorum should not be present at the hour of meeting, the speaker takes the chair, and sends officers of the house for the members, who immediately attend, and the business proceeds.

The yeas and nays can only be *called in the house*. Sometimes the secretary of the commonwealth or the clerk of the senate arrives at the bar to present messages, when the house is sitting in committee. In that case the speaker resumes the chair for a short time, and receives the messages. He then retires, and the chairman takes the chair and proceeds with the business before the committee.

[*Rule 34.* All bills shall be introduced upon the report of committees; standing and select committees may report by bill. Members asking leave to bring in a bill, shall give one day's notice, stating the object of the bill, and upon leave granted, a committee shall be appointed to prepare and bring in a bill accordingly.]

The old rule of allowing any member to read in his place, and by permission of the house to present to the chair, a bill, which was then to be proceeded in as if reported by a committee, was a very good one, and well calculated, particularly on the eve of the session, to free legislative proceedings from useless embarrassment. The 34th rule has been copied from the rules of the house of representatives of the United States; but I feel well assured, that experience will prove that the former one was most convenient for a state legislature. The senate rule permitting members to read bills in their places, and on leave given to present them to the chair, to be proceeded on as if reported by a committee, remains unchanged.

[*Rule 36.* Communications from the senate to the house shall be read, and information shall be given to the senate whenever any proposition coming from that body shall be concurred in.]

When a bill is negatived by either house, it is not the practice for the clerks to inform the house in which it originated, that it has been rejected. The copy of the journal, furnished by the sergeant-at-arms of one house to the sergeant-at-arms of the other, by whom it is placed on the tables of the members, is considered a sufficient notification upon the subject.

[*Rule 37.* When the names of the members shall be called, it shall be done in alphabetical order, except Mr. Speaker, who shall be last.]

By the 9th rule of the house of representatives adopted during the session of 1792, it was decided, that "the speaker's vote should only be given when the votes were equal."

The 9th rule of the house of representatives of the United States directs, that "In all cases of a ballot by the house, the speaker *shall* vote; in other cases he shall *not* vote, unless the house is equally divided, or unless his vote, if given in the minority, will make the division equal; in a case of such equal division, the question shall be lost." During a late session of congress, a "previous question" having been called, the speaker rose to count the votes, agreeably to the rule, which requires a majority to sustain it. He found that the house was equally divided. In this instance the speaker gave his vote, to second the motion for the call.

By the fourth section of the first article of the constitution, it is provided, that the vice-president of the United States shall be president of the senate, but shall have no vote unless equally divided.

The reason why he is precluded from voting, unless in the case mentioned, is because he is a senator, and it would give the state from which he came a preference, by allowing it three votes. The present rule of the house of representatives of this state, is the proper one. It directs the speaker to vote last. Where a county, as

Greene, has but one member, and that he should be elected speaker, as in the case of Hon. Reese Hill, it would be gross injustice to the people of that county to prevent their representative from voting, by electing him to preside over the deliberations of the house.

Rule 42. On the call of a member for a bill or subject, on the table of the house, the question shall be decided without debate.]

This is a very beneficial rule, if the speaker sets his face against all evasions, and impartially enforces it. If a member is very anxious to bring a bill before the house, he should, when the house is not in session, give the members his reasons for wishing it to be taken up. A whole day, if the rule is not strictly adhered to, may be wasted in discussing the propriety of taking up a bill; and perhaps after all this loss of time, the house will refuse to proceed to the consideration of it. The rule was devised to interrupt prefatory remarks, for if a discussion must be heard, it is most convenient to hear it on the bill itself, and not on the propriety of going into a consideration of it. To enforce the rule properly, it is to be done as soon as a member commences with his reasons in support of his motion, by the speaker's remarking, "No observations can be allowed on the question preceding to the consideration of a bill."

Of Rules.

Rule 45. No rule shall be altered or dispensed with but by two-thirds of the members present.] There is no rule more frequently called into question than the 45th, towards the rising of

the legislature. By this rule, which dispenses so frequently with other rules, bills have passed through their several readings in the course of a few minutes. The process is as follows :

Page 773.—Agreeably to order, the house resolved itself into a committee of the whole, Mr. Ramsey in the chair, on the bill from the senate, No. 574, entitled “An act for the relief of Wm. Streper, a soldier of the revolution ;” and after some time, the speaker resumed the chair, and the chairman reported the bill without amendment.

As soon as this report was made, it was moved and seconded to proceed to the second reading and consideration of the bill, which being agreed to, and the several sections, together with the title, having been read and agreed to, the Speaker rises and says : “ this bill having been read the second time, considered and agreed to, the question will be on *preparing* it for the third reading.” He puts the question, “ Will the house agree to prepare the bill for a third reading ?” which having carried, he says : “ The bill will be prepared for the third reading.” As soon as he has announced that it will be prepared, a member moves, that “ The rule which prohibits bills from being read twice on the same day, be dispensed with so far as relates to this bill, and that it now be read the third time.” If no objections are made, he says : “ The motion is agreed to.” The clerk then reads the bill ; and when he has finished, the Speaker says : “ The bill is before the house,” and rises and states the question thus : “ This bill originated in the senate, and has now been read the third time. The question will be on its final passage.

the house agree to the passage of the bill?" puts the question in this shape, as the bill is a important one, and he wishes to economise the time of the house, as motions after this manner are always made about the time of the adjournment of the legislature.

Sometimes the motion to proceed to the second reading is put with this addition, "that it be read *by title*." In this case, the sections are not

but merely the *title*; when the Speaker says: "the bill has been *read* a second time, considered and agreed to. The question is on *preparing* the bill for a third reading."

Bills from the senate are not transcribed by the clerk of the house, for they are transcribed before they are transmitted; hence the bill is said to be *prepared*." It is not unusual, when the motion is made to dispense with the rule, which prohibits the bill from being read twice on the same day, and that it be read a third time, to add "by its title." If this motion is agreed to, the clerk reads the title, and the Speaker announces, that "the bill is before the house, and that the question will be on its final passage." This motion prevents the Speaker from reading over the printed bill to detect errors while the clerk is reading the enrolled bill; and of course is never resorted to, except in cases of necessity. When, however, the clerk doubts about the correctness of the copy, he informs the Speaker, and the motion to read *by title* is withdrawn, and the bill is read through-

It is used frequently to occur, that a motion is made to dispense with going into committee on the whole; but that motion is not so beneficial

as to go into committee, and there make necessary amendments; as this keeps the from being loaded with amendments; when the motion to dispense with going into committee is carried, then, if any amendments are upon a second reading, they must appear in the journal, unless unanimously dispensed with.

Contested Elections.

Constitution, Article 1st, Sect. 12, "Contested elections shall be determined by a committee to be selected, formed and regulated in such manner as shall be directed by law. Upon the petition of at least fifty qualified electors of the district (see the act of 6th March, 1793, and its amendments,) addressed to the legislature, complaining of an undue election or false return of an elected governor, or upon the petition of qualified electors of the proper district, complaining of an undue election or false return of a senator, or upon the petition of twenty proper city or county qualified electors complaining of an undue election or false return of a member of the house of representatives, a committee is directed to be selected and agreeably to the provisions of the act of September, 1791, (See Purdon, 5th edition,) who are to try the matter of the petition and give a true judgment thereon, according to the evidence. This committee is vested with power to send for persons, papers and records, to examine all witnesses who may come before them upon oath or affirmation, which the clerk of the committee may administer.

e, and any person guilty of taking a false affirmation before them, or of procuring so to do, shall, upon conviction, be liable to the punishment as persons convicted of perjury are liable to by the laws of this commonwealth. Under the act referred to, no petition can be received by the legislature, unless the same shall be presented within *twenty days* after the meeting of the assembly.

A supplementary act passed the 6th of March 1818, relative to contested elections, it is further provided that no order shall be taken on any petition unless the same is accompanied by a certificate from the treasurer, prothonotary, or any of the commissioners of the county or counties in which the petitioners reside, setting forth that the petitioners, or as many of them as are required by law to which this section is a supplement, at the time of signing such petition, duly qualified electors.

The committee is also clothed with power not only to determine on the validity of contested elections, but also to decide which of the candidates has the greatest number of legal votes, and which candidate shall thereupon be entitled to the office which he had been voted for at such election.

By an act of the 23d of March, 1818, another amendment to the original act upon contested elections was deemed advisable by the legislature—that no order shall be taken on any petition addressed to the legislature, complaining of an illegal election or false return of a person elected governor, or a member of either branch of the

legislature, unless presented within *five days* ~~ter~~ the next meeting of the legislature, nor u *five* or more qualified electors signing such tion shall take and subscribe an oath or aff tion before some judge or justice of the pea and for the county or counties in which the side, a copy whereof shall accompany and b nexed to such petition, that the *facts* statu such petition are true, to the best of their k ledge and belief. It was further added, that : facts stated in the petition or petitions sha be established, then the county or counti which the petitioners reside shall pay the c but if the fact or facts stated in the petiti petitions shall be established, then the coun counties in which the facts complained of place, shall *pay the costs*."

The restrictions as to *five* days, grew o the trials to which the legislature was expo few years ago, when *contesting* was likely to come too troublesome. To throw some barri the way of the impetuous zeal of the time oath or affirmation, signed by at least five c fied electors, and presented within five days the session opened, were required. Since the riod, no contest within my recollection has p successful. Perhaps no policy is more sound that of compelling parties to present their e tions to a member's right to a seat, as soon a session commences. Otherwise the returned i ber has his mind so much disturbed about th quiry, that he cannot be very serviceable t county. He more or less has to pay court t and is frequently afraid to give a free and

ty or counties of which the district is composed, or other person or persons to whom such writ may be directed, he shall therein command such person or persons on a day certain, and therein particularly expressed, to hold an election to supply such vacancy; and when such vacancy shall happen in either house during the session of the general assembly, or when the same shall be required by their own adjournment, or by the governor, to meet at some time previous to the next succeeding general election, the speaker of the house wherein such vacancy shall happen, shall appoint a time, as early as may be convenient, for holding an election to fill the said vacancy; but if such writ shall be issued during the recess of the general assembly, and when the same shall not be required to meet before the next succeeding general election, the speaker issuing such writ shall direct the election to be held at the time appointed for holding the general election: *Provided always*, That if after issuing of such last mentioned writ, the governor shall at any time issue his proclamation for convening the general assembly, the sheriff, or other person to whom the said writ shall be directed, shall in that case proceed to execute the same, by holding the election within thirty days after the date of such proclamation: *And provided further*, That such writ so issued by the speaker of the house of representatives and senate, respectively, shall be delivered to the sheriff, or other person to whom the same may be directed, at least fifteen days before the day appointed for such election, who shall forthwith give due and public notice thereof throughout the county,

chamber where seats are prepared for their reception. When they are seated, the Speaker and members of the house resume their seats. Both bodies having now jointly assembled, the Speaker of the senate, if it should be his turn to preside, rising, says: "This is the day provided by the constitution and laws of the commonwealth to proceed to the choice of a state treasurer." He then asks, "Will the convention proceed to the election?" Which being agreed to, he says: "The clerk of the senate will call over the names of the members of the senate, and when he has finished, the clerk of the house will call over the names of the members of the house of representatives. The clerk of the senate commences. The members, as their names are called, state for whom they vote. The tellers repeat the vote. Having called over the names of the senators and representatives, the tellers add up the votes and make a report to the president of the convention, viz. that Mr. — has — votes. The president rises and repeats the report with the addition, that as Mr. — has a majority of the votes of the convention, he is therefore elected state treasurer for the ensuing year. There being no further business to be transacted in convention, some one of the members moves that the convention adjourn, which is agreed to. [As the Speaker of the senate withdraws, he politely takes leave of the house.]

The senators now retire to their chamber, and the Speaker having resumed his chair, the teller on the part of the senate makes report: "*The members of the senate and house of repre*

lives assembled in joint convention, and elected — state treasurer ;” and hands to the clerk the result of the election, which is entered upon the journals. In the house of representatives a similar report is made, and ordered to be entered upon the journal thereof.

of the Nomination and Election of United States Senator.

Constitution U. S. Art. I, sec. 4. The times, places and manner of holding elections for senators, shall be prescribed in each state, by the legislature thereof.

In pursuance of the above article, the legislature of Pennsylvania has prescribed the following manner of electing United States Senators.

Act of 5th October, 1804.

Sec. I. Whenever a vacancy is about to take place in the representation of this state, in the senate of the United States, in consequence of the expiration of the time for which a senator was chosen, the legislature shall proceed to supply such vacancy in the following manner, to wit. The members of both houses shall assemble in one chamber of the house of representatives, at one hour of twelve, on the second Tuesday in December, preceding the month of March, in any year, wherein a vacancy shall happen by the expiration of the constitutional term, for which such senator was elected, and then and there elect a senator or senators, as the case may be, to represent this state in the senate of the United States, which election shall be conducted in the following

manner, viz. Before the time of meeting, each house shall appoint one teller, and nominate one or more candidate or candidates for senator, and two days previously to the said meeting, communicate to each other the names of the persons so by them respectively appointed and nominated; at the meeting, the Speaker of the senate, in his absence the Speaker of the house of representatives shall preside; the names of the persons voted for, and the members voting, shall be entered in writing by the tellers, who shall report to the president the number of votes given for each candidate: if neither of the candidates shall have a majority of votes of the whole number of the members present, a second poll shall be taken, and so from time to time, until some one of the candidates shall have a majority of votes of the whole number of the members present: if the election shall not have been completed at the first meeting, the president shall adjourn to such time as a majority of the members then present shall agree, and so from time to time, until the election shall have been finally closed; whereupon the president shall announce the person having a majority of votes of the whole number of members present, to be duly elected a senator to represent this state in the senate of the United States: and the president shall, in the presence of the members of both houses, sign four several certificates of the election, attested by the tellers; one of which certificates shall be transmitted to the president of the senate of the United States, one to the person so elected, and the remaining two shall be preserved among the records, and entered at

made so as totally to alter the nature of the proposition: and it is a way of getting rid of a proposition by making it bear a sense different from what was intended by the movers, so that they vote against it themselves. 2 *Hats.* 79. 4, 82, 84. A new bill may be engrafted by way of amendment on the words, "Be it enacted," &c. 1 *Grey*, 190, 192.

I. The speaker shall take the chair each day, at the hour to which the senate stands adjourned, when he shall call the members to order, and on the appearance of a quorum shall cause the journal of the preceding day to be read, which the senate shall have power then to correct.

II. The order to be observed in taking up business, shall be as follows:

1. The asking leave of absence.
2. The receiving and referring of petitions, memorials, remonstrances, letters and documents; and on motion, referring such as have been previously presented, and appointing additional members on committees.
3. The receiving of reports of committees,
4. The reading of bills in their places by members, who, on obtaining leave of the senate, may present the same to the chair, when they shall be proceeded on, as if reported by a committee.
5. The reading of bills the third time.
6. The considering of reports and resolutions previously presented, and the referring of items of unfinished business.
7. The offering of original resolutions,

8. The considering of bills in the following order :

First. Those in which the senate has made progress on a second reading.

Second. Those reported by a committee of the whole.

Third. Those in which the committee of the whole has made some progress, and has had leave to sit again.

9. The considering of *the orders of the day.*

10. The disposing of bills upon which no order has been taken, each of which shall be assigned as the order of some particular day, unless a recommitment be directed.

III. It shall be the duty of the speaker to preserve order, prevent personal reflections, confine members in debate to the question, and when two or more members rise at the same time, decide who shall be first heard ; but an appeal in all such cases shall lie to the senate, and a member called to order may extenuate or justify.

IV. Members speaking shall address the speaker, and when presenting a paper, shall first state its import. Members shall not speak more than twice on any question, without permission of the senate, nor be interrupted when speaking, except by a call to order by the speaker, or by a member through the speaker, or by a member to explain, or by a call for the previous question.

V. When a motion is made and seconded, it shall, before debate, be stated by the speaker.— Every motion shall be reduced to writing, if the speaker or any member require it; but a motion may *be withdrawn* by the member making or seconding

ty or counties of which the district is composed, or other person or persons to whom such writ may be directed, he shall therein command such person or persons on a day certain, and therein particularly expressed, to hold an election to supply such vacancy; and when such vacancy shall happen in either house during the session of the general assembly, or when the same shall be required by their own adjournment, or by the governor, to meet at some time previous to the next succeeding general election, the speaker of the house wherein such vacancy shall happen, shall appoint a time, as early as may be convenient, for holding an election to fill the said vacancy; but if such writ shall be issued during the recess of the general assembly, and when the same shall not be required to meet before the next succeeding general election, the speaker issuing such writ shall direct the election to be held at the time appointed for holding the general election: *Provided always*, That if after issuing of such last mentioned writ, the governor shall at any time issue his proclamation for convening the general assembly, the sheriff, or other person to whom the said writ shall be directed, shall in that case proceed to execute the same, by holding the election within thirty days after the date of such proclamation: *And provided further*, That such writ so issued by the speaker of the house of representatives and senate, respectively, shall be delivered to the sheriff, or other person to whom the same may be directed, at least fifteen days before the day appointed for such election, who shall forthwith give due and public notice thereof throughout the county,

at least ten days before such election, and shall send a copy thereof to each of the judges, or one of the judges of each district therein, in each such county or counties be divided for the purposes of election; and such elections shall be holden and conducted in like manner as is herebefore directed, and the judges and inspectors chosen for and before the next preceding general election, shall attend at, and serve as such, respectively, at such occasional elections.—*Purdish* 5th ed. 314.*

Electors of President, in certain cases, to be chosen by a majority of the Electors.

Act of 2d February, 1802.

Sec. III. The electors who shall be chosen aforesaid, shall at twelve o'clock, on the day which is or may be directed by the congress of the United States, meet at the seat of government of the state, and shall then and there perform the duties enjoined upon them by the constitution and laws of the United States.†

Act of 7th March, 1829. Pamphlet, p. 61.

Sec. I. If at any time after the passage of the

* But see Supplement passed the 16th of April, 1829, which directs that where the return cannot be made before the rising of the legislature, the election is postponed till the next general election.

† By an Act of Congress of the 1st March, 1792, the day is the first Wednesday in December: their votes are to be delivered to the President of the Senate of the United States before the first day of January, to be opened in Congress on the second Wednesday in February.

At the electors of president and vice-president of the United States shall meet, and it shall appear that any one or more of the electors are absent from the seat of government at the time appointed by law, the electors present shall proceed to elect, *a voce*, a person or persons to fill up such vacancy or vacancies as may have occurred by the non-attendance of any one or more of the electors; and immediately after such choice shall have been made by the electors, the name or names of the person or persons so chosen shall be transmitted to the governor, whose duty it shall be forthwith to cause a notification of his or their election to be delivered, in writing, to each and every of the electors last chosen as aforesaid; and the person or persons so notified, and not the person or persons in whose place he or they shall be chosen as aforesaid, shall be electors, and shall meet on the same day, together with the other electors, and perform the duties enjoined on them by the constitution and Laws of the United States.

RULES OF THE SENATE

OF THE

COMMONWEALTH OF PENNSYLVANIA

The Rules of the Senate and House of Representatives are so nearly alike, that it was unnecessary to make separate notes upon them. But I nevertheless believe that I have said every thing upon the rules of the house that can elucidate those of the senate. There is only one rule of the senate that requires particular notice, and that is, because there is no rule of the kind for the government of the house of representatives. It is the 14th, and is in the following words: "No amendment shall be received by the speaker, which destroys the general sense of the original section, clause or paragraph." In the other house, amendments of this character are left with the members to reject by voting against them, but not to the speaker's discretion. If an amendment be proposed, inconsistent with one already agreed to, it is a fit ground for rejection by the house, but not within the *competence* of the speaker to *suppress*, as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might *usurp a negative* on important modifications, and suppress instead of *serve the legislative will*. Amendments may be

made so as totally to alter the nature of the proposition: and it is a way of getting rid of a proposition by making it bear a sense different from what was intended by the movers, so that they vote against it themselves. 2 *Hats*. 79. 4, 82, 84. A new bill may be engrafted by way of amendment on the words, "Be it enacted," &c. 1 *Grey*, 190, 192.

I. The speaker shall take the chair each day, at the hour to which the senate stands adjourned, when he shall call the members to order, and on the appearance of a quorum shall cause the journal of the preceding day to be read, which the senate shall have power then to correct.

II. The order to be observed in taking up business, shall be as follows:

1. The asking leave of absence.
2. The receiving and referring of petitions, memorials, remonstrances, letters and documents; and on motion, referring such as have been previously presented, and appointing additional members on committees.
3. The receiving of reports of committees,
4. The reading of bills in their places by members, who, on obtaining leave of the senate, may present the same to the chair, when they shall be proceeded on, as if reported by a committee.
5. The reading of bills the third time.
6. The considering of reports and resolutions previously presented, and the referring of items of unfinished business.
7. The offering of original resolutions,

8. The considering of bills in the following order :

First. Those in which the senate has made progress on a second reading.

Second. Those reported by a committee of the whole.

Third. Those in which the committee of the whole has made some progress, and has had leave to sit again.

9. The considering of *the orders of the day.*

10. The disposing of bills upon which no order has been taken, each of which shall be assigned as the order of some particular day, unless a recommitment be directed.

III. It shall be the duty of the speaker to preserve order, prevent personal reflections, confine members in debate to the question, and when two or more members rise at the same time, decide who shall be first heard ; but an appeal in all such cases shall lie to the senate, and a member called to order may extenuate or justify.

IV. Members speaking shall address the speaker, and when presenting a paper, shall first state its import. Members shall not speak more than twice on any question, without permission of the senate, nor be interrupted when speaking, except by a call to order by the speaker, or by a member through the speaker, or by a member to explain or by a call for the previous question.

V. When a motion is made and seconded, shall, before debate, be stated by the speaker.—Every motion shall be reduced to writing, if the speaker or any member require it; but a motion may be withdrawn by the member making or seconding

; before amendment, postponement, an order to lie on the table, or decision.

VI. Every motion shall be entered on the journal, together with the names of the members making and seconding it.

VII. A question regularly before the senate, may be interrupted only by a call for the previous question, for amendment, postponement, commitment, or adjournment.

VIII. A motion for adjournment shall always be in order, and the question taken without debate.

IX. The motion for the previous question, postponement, or commitment, shall preclude amendment and debate on the original subject. The previous question shall not be moved by less than four members.

X. On all questions, the speaker shall vote last.

XI. Members in the majority only, or where the senate has been equally divided, those who voted in the negative, shall move the reconsideration of any question or vote which may have been determined, but no motion for reconsideration shall be received after the expiration of six days, exclusive of Sundays, from such determination.

XII. Every bill shall receive three readings previous to its being passed, which readings shall be on different days.

XIII. No bill shall be amended on the first reading.

XIV. No amendment shall be received by the speaker, which destroys the general sense of the original section, clause, or paragraph.

XV. No debate shall be allowed on question of order, unless there be an appeal, or reference by the speaker to the senate.

XVI. On filling up blanks, the question shall first be taken on the largest sum, greater number and most distant day.

XVII. All bills shall be considered by a committee of the whole.

XVIII. All committees shall be appointed by the speaker, unless otherwise ordered by the senate.

XIX. Every member of a committee shall attend the call of the chairman, who shall be the first named person on such committee; and in case of his neglect to call the committee together, or in case of his absence by sickness or other cause, the committee shall attend the call of the next person named on the committee.

XX. The rules and proceedings observed in the senate, shall be observed, as far as they are applicable, in the committee of the whole.

XXI. No member shall absent himself without leave of the senate first obtained, unless prevented from attending by sickness or other sufficient cause.

XXII. The files of the senate may be inspected by the members, but no paper shall be withdrawn therefrom without the consent of the senate.

XXIII. No person shall be admitted within the bar of the senate during its sessions, except the members and officers of the two branches of the legislature, the governor and heads of department

nor shall any person be admitted within the lobby of the senate chamber, except such as shall be invited by a member of the senate.

XXIV. The consent of two-thirds of the members present shall be necessary to dispense with any rule of the senate.

OF IMPEACHMENTS.

Constitution, Art. IV. sec. 1. The house of representatives shall have the sole power of impeaching.

Sec. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two thirds of the members present.

Sec. 3. The governor, and all other civil officers under this commonwealth, shall be liable to impeachment for any misdemeanor in office. But judgment in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honour, trust or profit, under this commonwealth. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to law.

Some few years ago, memorials were presented to the house of representatives, complaining of the official conduct of several president judges of this commonwealth. These memorials were referred to committees, who were authorized to send for persons and papers, with the view to ascertaining whether the charges were of sufficient importance to warrant the preparing articles of im-

achment, to be presented to the senate. In a number of cases the committees reported in favour of impeaching the judges ; and they were put upon their trials at the bar of the senate sitting as a court of impeachment. That the proceedings of court of this kind may be fully understood, I have looked into the manner of preparing and presenting articles to the senate, and the organization of the court, an outline of which I have thought proper to introduce into this work.

Suppose a petition had been presented to the house of representatives, complaining of judge —'s official conduct. After being read, it could be referred to a committee, who would be authorized to send for persons and papers. If the committee should, upon the examination of the evidence, come to the determination of reporting against the judge's conduct, they would report— "That they had examined the testimony adduced in support of the complaint preferred against the judge, [naming him,] from which it appeared that he had neglected to discharge his duties of judge in the following instances." [Here enumerate the instances.] To the report they would attach the following: "Resolved, that a committee be appointed to prepare articles of impeachment against —, the president judge of the — judicial district of the commonwealth of Pennsylvania, for misdemeanors in office." If this resolution should be agreed to, a committee is immediately appointed to prepare the articles. In the course of a few days, that committee would report : "That they have prepared articles of impeachment against

—, the president judge of the — judicial district of this state.” headed as follows:

ARTICLES

Exhibited by the house of representatives of the commonwealth of Pennsylvania, in their name and in the name of the people of Pennsylvania against —, president judge of the — judicial district of the commonwealth of Pennsylvania, in support of their impeachment against him for misdemeanors in office :

Article 1, 2, &c.—If these articles of impeachment should be adopted, the speaker, on motion appoints usually seven members of the house as committee to exhibit them to the senate, and on behalf of the house of representatives to manage the trial thereof. The articles are signed by the Speaker. And when the committee are ready to present them to the senate, the house usually resolves itself into committee of the whole, and proceeds to the senate chamber, to hear them read by their committee. The committee of managers are announced by the serjeant-at-arms and afterwards by the Speaker of the senate. The chairman of the managers then says : “ That they are appointed to prefer to the senate articles of accusation and impeachment against —, president judge of the — judicial district.” He then reads the articles. The Speaker continues standing till the chairman of the managers finish reading them ; as soon as he has gone through the articles, the chairman says in behalf of the committee, that “ they are ready on the part of the house of representatives to support the charge

ited; at such time and place as the senate appoint." He then presents the articles to the speaker of the senate, who addresses the committee as follows :

Gentlemen of the House of Representatives: The senate will in due time give notice to the house of representatives of the order taken on the articles of impeachment now exhibited against the president judge of the ——— judicial court of Pennsylvania." The committee now draw, in company with the committee of the house, who are or ought to be present at the presentation of the articles of impeachment. The speaker of the house of representatives having resumed his seat, the chairman of the committee of the whole makes report, and afterwards the committee of managers, detailing all that was done by them, as well as the senate, in relation to the articles. Their report is inserted upon the journal of the house. The senate now appoint a committee to enquire at what time it will be most convenient and proper for them to proceed to the trial, and having agreed upon the time, they direct their clerk to notify the house of representatives of the time when they will be ready to proceed, together with the order of proceedings. In the case of Judge Franklin, the following regulations were adopted :

Resolved, That the senate will proceed to the trial of the said impeachment on Friday the 25th inst., at 9 o'clock in the forenoon.

Resolved, That the speaker do issue his summons to the said judge, to appear on the said day, to answer to the articles exhibited against him.

Resolved. That as well the managers of the house of representatives as the said judge, shall have process for their witnesses, and that the speaker shall issue such process at the request of the parties.

Resolved. That the court shall be organized as the proceedings be as follows :

1st. That before proceeding to organize the court of impeachment, the following oath or affirmation shall be administered to the senate, viz "You do solemnly swear (or affirm) that in all things appertaining to the trial of the impeachment of Walter Franklin, president of the court of common pleas in the second judicial district consisting of the counties of Lancaster and York you will do impartial justice, according to the constitution and laws of the Commonwealth of Pennsylvania." Which oath or affirmation shall be administered in the manner prescribed by law on Friday the twenty-fifth instant.

2d. That at nine o'clock in the forenoon of the same day, the trial shall commence, in the senate chamber, and if the said judge, on being called by the president of the court, shall appear, the articles of impeachment shall be read by the clerk.

3d. The president of the court shall thereupon demand of the said president judge, what answer he has to make to the said accusation or articles; and such answer or answers shall be entered in the minutes and transactions of the court at large.

4th. The president shall then demand of the managers of the house of representatives, what

ELECTION OF MEMBERS OF CONGRESS. 163

judges to transmit to each of the persons elected to serve in congress, or in the senate or house of representatives, a certificate of the returns of his election ; and each judge who shall attend to cast up and make out the said returns, shall be allowed ten cents for every mile which he shall necessarily travel in performing that service : [*Provided, however, That daily wages shall not be allowed to judges or inspectors.*] *Proviso repealed, see 4 Smith, p. 187.*]

Act of 18th February, 1805.

Sec. I. When any vacancy shall happen by death, resignation, or otherwise, in the representation of the people of this state in the house of representatives of the United States, the governor of this commonwealth shall issue his writ or writs to the sheriff or sheriffs of the county or counties, of which the congressional district is composed, commanding such sheriff or sheriffs, on a certain day therein particularly expressed, to hold an election to supply such vacancy ; and such writ or writs, so issued by the governor, shall be delivered to the sheriff or sheriffs to whom the same may be directed, at least twenty days before the day appointed for such election, who shall forthwith give due and public notice thereof throughout the county at least fifteen days before such election, and shall send a copy thereof to one or more of the judges of each election district therein ; and such elections shall be holden and conducted in the same manner, and under the care and regulation of the same officers who conducted the next preceding annual election ; subject to the same

First. The opening of the accusation by the managers.

Second. The testimony on the part of the commonwealth.

Third. The opening in the behalf of the accused.

Fourth. The testimony on the part of the accused.

Fifth. The argument on the part of the managers.

Sixth. The argument on the part of the accused.

Seventh. The reply on behalf of the managers.

Friday, the 25th of March, 1825, being the day agreed upon to open the court and commenced the trial, the proceedings are as follows: The speaker, at the hour appointed, will adjourn the senate, and inform the members that the court of impeachment will now be organized. For this purpose he calls one of the senators to administer to him the requisite qualification, the form of which is prescribed in the order of proceedings, and having taken his oath, pursuant to the direction of the constitution, he directs the clerk to call all the members, alphabetically, who step up to the desk and severally take the necessary oath or affirmation. If any member is desirous of being excused from serving on the court, if he can give a reason sufficient to satisfy the majority of the court, he will be excused. On the trial of Judge Franklin, Mr. Mahon, the late speaker of the senate, was excused from serving on account of indisposition, and Mr. Emlen was excused on

count of his relationship to the judge. All the members having been sworn or affirmed, except such as may have been excused, and the sergeant-at-arms having made proclamation that the court open, the clerk is directed to give notice to the presence of representatives, that the court of impeachment for the trial of —, president judge of the — judicial district of Pennsylvania, is ready to proceed to business.

The managers having been previously notified the day and hour for the assembling of the court, are in a state of readiness. They immediately proceed, accompanied by the committee of the whole house, to the senate chamber, where the court are sitting. The members of the house are assigned seats.

The court now direct —, the president judge of the — judicial district of Pennsylvania, to be called, and on his appearance at the bar, the president directs the clerk to read the articles of impeachment, prepared by the house of representatives, in his hearing. The clerk having read the articles to the judge, the president of the court of impeachment now asks him, "What answer, if any, he has to make in his behalf, to the articles of impeachment preferred against him?" The judge, in reply, reads his answer, or his counsel reads it for him, he having informed the court that the gentleman appears to assist him in his defence. As soon as the judge's answer has been read, the president of the court asks the committee of managers in behalf of the house of representatives, "What reply they have to make to the charges and answers of the judge?"

It is usual at this time, for the managers to request a day's delay, till they consult with the house, as to the replication that may be thought proper to be made.

The court of impeachment grant the request, and adjourn to meet the next day, at the hour appointed. The senate then resume their legislative business.

The next morning, the court being opened by proclamation of the proper officer, and the clerk having called over the names of the members—and the president having announced that the court are ready to proceed, the managers, by their chairman, present the following replication :

“ In the House of Representatives,

March —, 1825.

“ The house of representatives, in their own name, and in the name of the people of Pennsylvania, reply that the said ——— is guilty of all and every the misdemeanors charged in the several articles in the manner and form as therein set forth ; and this they are ready to prove against him, at such convenient time and place as the senate shall appoint for that purpose.

Signed, ———,

Speaker of the House of Representatives.

Attest—F. R. S. Clerk.

Suppose that all the testimony had been heard on both sides, and the last day of the trial had arrived, the president would address the court as follows :

“Gentlemen—You have now heard the witnesses on behalf of the commonwealth and the respondent, president judge of the ——— judicial district of Pennsylvania, impeached for misdemeanors in office.” The president directs the clerk to read the first article, and observes, that the members will please, as their names are called, to pronounce their judgment on the following question: “Is the respondent guilty or not guilty of a misdemeanor in office, charged in the first article of impeachment?” Whatever may be the vote, the clerk records it. Thus the president goes through all the articles, taking the vote of every member upon each article. The clerk then hands the votes to the president, who reads it, as follows:

1st. Art. 4 members said guilty—24 said not guilty.

2d. Art. 8 members said guilty—20 said not guilty.

And so on, pronouncing on all the articles.

And as there are not two-thirds of the votes of all the court in favour of any one article, the president rises and says: “As there is not a constitutional majority of votes finding ——— guilty of any one of the articles, it therefore becomes my duty to declare that he stands acquitted of all the articles of impeachment exhibited by the house of representatives against him. The business of the court being finished, it adjourns *sine die*.”

ELECTION OF REPRESENTATIVES

IN

THE CONGRESS OF THE UNITED STATES.

Act of 4th April, 1803.

Sec. IV. In cases in which counties consist of more than one election district, or in cases where one or more members of congress, or members of the senate or house of representatives of the general assembly of the commonwealth, are to be elected, and in case of the election of governor, the judges from each county, and the judges from each election district, whose duty it shall be, agreeably to the aforesaid act, to take charge of the certificate or certificates of the elections of said counties or districts, when met, shall at the place and the time appointed by law, cast up the several county or district returns, as the case may be, and make duplicate returns of the person or persons chosen for the county or counties, if there is more than one county connected in the election, and one of each (such) returns, if there are more than one, shall be deposited in the prothonotary's office of the county, in which they meet, and one other of the returns under a sealed cover, directed to *the secretary* of the commonwealth, shall be by *the said judges* placed in one of the nearest *post offices*; and it shall also be the duty of the &

ELECTION OF MEMBERS OF CONGRESS. 163

udges to transmit to each of the persons elected to serve in congress, or in the senate or house of representatives, a certificate of the returns of his election; and each judge who shall attend to cast and make out the said returns, shall be allowed ten cents for every mile which he shall necessarily travel in performing that service: [*Provided, however, That daily wages shall not be allowed to judges or inspectors.*] *Proviso repealed, see 4 Smith, p. 187.*]

Act of 18th February, 1805.

Sec. I. When any vacancy shall happen by death, resignation, or otherwise, in the representation of the people of this state in the house of representatives of the United States, the governor of this commonwealth shall issue his writ or writs to the sheriff or sheriffs of the county or counties, of which the congressional district is composed, commanding such sheriff or sheriffs, on a certain day therein particularly expressed, to hold an election to supply such vacancy; and such writ or writs, so issued by the governor, shall be delivered to the sheriff or sheriffs to whom the same may be directed, at least twenty days before the day appointed for such election, who shall forthwith give due and public notice thereof throughout the county at least fifteen days before such election, and shall send a copy thereof to one or more of the judges of each election district therein; and such elections shall be holden and conducted in the same manner, and under the care and regulation of the same officers who conducted the next preceding annual election; subject to the same

The judges of the twenty-first district shall meet at the court house in Washington county.

The judges of the twenty-second district shall meet at the court house in Pittsburg.

The judges of the twenty-third district shall meet at the house of Robert Barber, in Shattons-ville, Armstrong county.

The judges of the twenty-fourth district shall meet at the house of Jesse Dushane, in New Castle, Mercer county.

The judges of the twenty-fifth district shall meet at the court house in Crawford county, on the third Tuesday of October next, and on the third Tuesday of October biennially thereafter during the continuance of this act, and within the space of ten days after the election, the judges of each respective district so convened shall cause one copy of the said general return to be deposited in the prothonotary's office of the county in which they meet, and one copy thereof, signed and sealed in the same manner as the said return, under a sealed cover, directed to the secretary of the commonwealth, shall be placed by one of said judges in the nearest post office, or otherwise, within twenty days, safely delivered to said secretary, and they shall also, within twenty days, transmit to each of the persons elected, a certificate of his election, and it shall be the duty of the governor, on the receipt of the returns transmitted to the secretary of the commonwealth, to declare by proclamation, the names of the respective persons returned to him as duly elected in each district; and he shall also, as soon as conveniently may be thereafter, transmit the said returns

inhabitants of the United States shall be taken agreeably to the constitution and laws of the United States, at the same places respectively, in the same manner and under the care and regulation of the same officers, as is provided in and by the several acts of assembly for the regulation of the general elections of this state; of which elections public notice shall be given by the sheriffs of the several counties, at least thirty days before the said election.

Sec. III. Every person who shall be guilty of any neglect or abuse of this act, or of any of the said acts of assembly for the regulation of elections, at an election to be held in pursuance of this act, shall be prosecuted and punished in the same manner, as if guilty of the like neglect or abuse in the election of members of the legislature of this state.

Sec. IV. The judges of the election in each county or district, erected into a separate district, after having formed the return of the whole election in the said county or district, in such manner as is by law directed, shall within six days cause said return to be deposited in the office of the prothonotary of said county or district, and shall also cause a duplicate thereof, signed and sealed in the same manner as the said return, under a sealed cover, directed to the secretary of the commonwealth, to be placed forthwith in the nearest post offices, or to be otherwise within twenty days safely delivered to him; and they shall also transmit to each of the persons elected, a certificate of the returns of his election.

The judges of the twenty-first district shall meet at the court house in Washington county.

The judges of the twenty-second district shall meet at the court house in Pittsburg.

The judges of the twenty-third district shall meet at the house of Robert Barber, in Shattons-ville, Armstrong county.

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The judges of the twenty-fifth district shall meet at the court house in Crawford county, on the third Tuesday of October next, and on the third Tuesday of October biennially thereafter during the continuance of this act, and within the space of ten days after the election, the judges of each respective district so convened shall cause one copy of the said general return to be deposited in the prothonotary's office of the county in which they meet, and one copy thereof, signed and sealed in the same manner as the said return, under a sealed cover, directed to the secretary of the commonwealth, shall be placed by one of said judges in the nearest post office, or otherwise, within twenty days, safely delivered to said secretary, and they shall also, within twenty days, transmit to each of the persons elected, a certificate of his election, and it shall be the duty of the governor, on the receipt of the returns transmitted to the secretary of the commonwealth, to declare by proclamation, the names of the respective persons returned to him as duly elected in *each* district; and he shall also, as soon as *conveniently may be* thereafter, transmit the said returns

2. The counties of Adams and Franklin shall be the twelfth district, and elect one member.
3. The counties of Cumberland, Perry and Juniata shall be the thirteenth district, and elect one member.
4. The counties of Mifflin, Huntingdon and Lycoming shall be the fourteenth district, and elect one member.
5. The counties of Columbia and Luzerne shall be the fifteenth district, and elect one member.
6. The counties of Union, Northumberland and Lycoming shall be the sixteenth district, and elect one member.
7. The counties of Susquehanna, Bradford, Potter and M'Kean shall be the seventeenth district, and elect one member.
8. The counties of Bedford, Somerset and Schuylkill shall be the eighteenth district, and elect one member.
9. The counties of Westmoreland and Indiana shall be the nineteenth district, and elect one member.
10. The counties of Fayette and Greene shall be the twentieth district, and elect one member.
1. The county of Washington shall be the twenty-first district, and elect one member.
2. The county of Allegheny shall be the twenty-second district, and elect one member.
3. The counties of Clearfield, Jefferson, Armstrong and Butler shall be the twenty-third district, and elect one member.
4. The counties of Beaver and Mercer shall

be the twenty-fourth district, and elect one member.

25. The counties of Crawford, Erie, Warren and Venango shall be the twenty-fifth district, and elect one member.

Sec. II. The provisions contained in the second, third and fourth sections of an act entitled "An act to provide for the election of representatives of the people of this state in the congress of the United States," passed the second day of April, eighteen hundred and twenty-two, be and the same are hereby continued in full force.

Sec. III. The judges of the elections in the several counties or districts of this state, after having formed the returns of the whole elections in said counties or districts respectively, as is now by law directed, shall send the same by one or more of their number to the place hereafter mentioned in the district of which such county or district is a part, when the judges so met shall compare and cast up the several returns, and shall execute under their hands and seals one general and true return of the whole district, that is to say, that the judges of the first, second and third districts, shall meet at the state house in the city of Philadelphia.

The judges of the fourth district shall meet at the court house in Chester county.

The judges of the fifth district shall meet at the court house in Montgomery county.

The judges of the sixth district shall meet at the court house in Bucks county.

The judges of the seventh district shall meet at the court house in the borough of Easton.

The judges of the eighth district shall meet at the house of Samuel K. Kepner, in Schuylkill county.

The judges of the ninth district shall meet at the court house in Berks county.

The judges of the tenth district shall meet at the house of John Henry, in Dauphin county.

The judges of the eleventh district shall meet at the court house in York county.

The judges of the twelfth district shall meet at the house now occupied by David Newman, on the South mountain in Adams county.

The judges of the thirteenth district shall meet at the court house, in Perry county.

The judges of the fourteenth district shall meet at the house of Jeremiah C. Betts, in Ennisville, Huntingdon county.

The judges of the fifteenth district shall meet at the house of John Jones, in Berwick, Columbia county.

The judges of the sixteenth district shall meet at the house of Isaac Allen, in Uniontown, Lycoming county.

The judges of the seventeenth district shall meet at the court house in Tioga county.

The judges of the eighteenth district shall meet at the house now occupied by John Stotler, on the Allegheny mountain, in Somerset county.

The judges of the nineteenth district shall meet at the house now occupied by Samuel M'Anulty, in Blairsville in Indiana county.

The judges of the twentieth district shall meet at the house now occupied by Jeremiah Davidson, in *Fayette county*.

The judges of the twenty-first district shall meet at the court house in Washington county.

The judges of the twenty-second district shall meet at the court house in Pittsburg.

The judges of the twenty-third district shall meet at the house of Robert Barber, in Shattonsville, Armstrong county.

The judges of the twenty-fourth district shall meet at the house of Jesse Dushane, in New Castle, Mercer county.

The judges of the twenty-fifth district shall meet at the court house in Crawford county, on the third Tuesday of October next, and on the third Tuesday of October biennially thereafter during the continuance of this act, and within the space of ten days after the election, the judges of each respective district so convened shall cause one copy of the said general return to be deposited in the prothonotary's office of the county in which they meet, and one copy thereof, signed and sealed in the same manner as the said return, under a sealed cover, directed to the secretary of the commonwealth, shall be placed by one of said judges in the nearest post office, or otherwise, within twenty days, safely delivered to said secretary, and they shall also, within twenty days, transmit to each of the persons elected, a certificate of his election, and it shall be the duty of the governor, on the receipt of the returns transmitted to the secretary of the commonwealth, to declare by proclamation, the names of the respective persons returned to him as duly elected in each district; and he shall also, as soon as conveniently may be thereafter, transmit the said returns

nade to him to the house of representatives in congress of the United States: *Provided*, That ere any district is composed of a single county return of the election of member of congress ll be made at the same time as the returns of the ction of members of the legislature of this state: *vided further*, That the aforesaid arrangement districts shall not be construed to apply to the ng of vacancies which may occur, by death, gnation or otherwise, in the representation of state in the present congress of the United tes; but such vacancies shall be filled as though act had not been passed.

Act of 7th March, 1829.

Sec. I. If at any time after the passage of this the electors of president and vice-president of United States shall meet, and it shall appear t any one or more of the electors are absent n the seat of government at the time appointed law, the electors present shall proceed to elect, a *voce*, a person or persons to fill up such vacancy or vacancies as may have occurred by the i-attendance of any one or more of the electors; and immediately after such choice shall have n made by the electors, the name or names of person or persons so chosen shall be transmit- to the governor, whose duty it shall be forth- h to cause a notification of his or their elec- n to be delivered, in writing, to each and every the electors last chosen as aforesaid; and the son or persons so notified, and not the person persons in whose place he or they shall be cho-

gen as aforesaid, shall be electors, and shall meet at the same day, together with the other electors, and perform the duties enjoined on them by the constitution and laws of the United States.

Sec. II. If any elector or electors who may be chosen in this commonwealth shall die or resign either before or at the time appointed by law for them to assemble, or shall by any other means be prevented from acting, it shall and may be lawful for the electors aforesaid to supply the place of such elector or electors, in the same manner as is directed in the first section of this act.

DECLARATION
OF
INDEPENDENCE.

IN CONGRESS, JULY 4, 1776.

UNANIMOUS DECLARATION OF THE THIRTEEN UNITED
STATES OF AMERICA.

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind, requires that they should declare the causes which impel them to the separation.

We hold these truths to be self evident, that all men are created equal ; that they are endowed by their Creator, with certain unalienable rights ; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed ; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such forms, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established, should not be changed for light and transient

causes ; and, accordingly, all experience has show that mankind are more disposed to suffer, whi evils are sufferable, than to right themselves l abolishing the forms to which they are accu tomed. But when a long train of abuses ar usurpations, pursuing invariably the same objec evinces a design to reduce them under absolute de potism, it is their right, it is their duty, to thro off such government, and to provide new guar for their future security. Such has been the p tient sufferance of these colonies ; and such now the necessity which constrains them to alt their former systems of government. The histo of the present King of Great Britain, is a histo of repeated injuries and usupations, all having i direct object the establishment of an absolute t ranny over these states. To prove this, let fac be submitted to a candid world.

He has refused his assent to laws, the mo wholesome and necessary for the public good.

He has forbidden his governors to pass laws immediate and pressing importance, unless su pended in their operation till his assent should l obtained ; and when so suspended, he has utter neglected to attend to them.

He has refused to pass other laws for the accomodation of large districts of people, unless the people would relinquish the right of represent tion in the legislature, a right inestimable to the and formidable to tyrants only.

He has called together legislative bodies at plac unusual, uncomfortable, and distant from the de p sitory of their public records, for the sole purp of fatiguing them into compliance with his m sures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasion on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining in the mean time, exposed to all the danger of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harrass our people, and eat out their substance.

He has kept among us, in time of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction, foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation.

parallel in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us; and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time, of attempts made by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must therefore, acquiesce in the necessity which denounces our separation, and hold them, as we

and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned, among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and, until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three. [*See 5 Wheat. 317.*]

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The house of representatives shall choose their speaker, and other officers, and shall have the sole power of impeachment.

Sect. III. 1. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years; and each senator shall have one vote. [*See 6 Wheat. 390.*]

INDEPENDENCE.

7

Wolcott
New York.

n Floyd
Livingston

Lewis
Morris
New Jersey.

l Stockton
Vitherspoon

Hopkinson
art

m Clark
Pennsylvania.

Morris
in Rush

in Franklin
orton

Clymer
Smith

Taylor
Wilson

Ross
Delaware.

s McKean
Rodney

Thomas Stone
Charles Carroll of Carrollton
Virginia.

George Wythe
Richard Henry Lee

Thomas Jefferson
Benjamin Harrison

Thomas Nelson jr.
Francis Lightfoot Lee

Carter Braxton

North Carolina.

William Hooper
Joseph Hewes

John Penn

South Carolina.

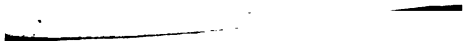
Edward Rutledge
Thomas Heyward jr.

Thomas Lynch jr.
Arthur Middleton

Georgia.

Button Gwinnet
Lyman Hall

George Walton



THE CONSTITUTION

OF THE

UNITED STATES OF AMERICA,

we, the people of the United States, in order to
a more perfect Union, establish justice, in-
domestic tranquillity, provide for the common
good, promote the general welfare, and secure
the blessings of liberty to ourselves and our pos-
terity, do ordain and establish this Constitution
for the United States of America. [*See 1 Wheat.*
4 Wheat. 403.]

ARTICLE I.

OF THE LEGISLATURE.

SECTION I. All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECT. II. 1. The house of representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative, who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States,

and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned, among the several states which may be included within this Union, according to the respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and in every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and, until such enumeration shall be made, the state of New Hampshire be entitled to choose three, Massachusetts two, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three. [*See 5 Wheat. 317.*]

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The house of representatives shall choose their speaker, and other officers, and shall have the sole power of impeachment.

Sect. III. 1. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years, and each senator shall have one vote. [*See 6 Wheat. 390.*]

2. Immediately after they shall be assembled, in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year. And if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

5. The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

6. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside. And no person shall be convicted, without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall

not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to law.

Sec. IV. 1. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

2. Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

Sec. V. 1. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of the absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two thirds, expel a member. [*See 1 Hall's Am. Law Jour.* 459.]

3. Each house shall keep a journal of its proceedings, and from time to time publish the same excepting such parts as may, in their judgment require secrecy; and the yeas and nays of members of either house, on any question, shall, at the

constitution in the government of the United States, or in any department or officer thereof. [4 *Wheat.* 413. 6 *Wheat.* 204.]

Sec. IX. 1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by congress, prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law, shall be passed. [See 3 *Dallas*, 386, 396. 6 *Binn.* 271.]

4. No capitation or other direct tax, shall be laid, unless in proportion to the census or enumeration, herein before directed to be taken. [See 5 *Wheat.* 317. 3 *Dall.* 171.]

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state, be obliged to enter, clear, or pay duties in another.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person holding any office

his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be re-considered, and if approved by two thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless congress, by their adjournment, prevent its return, in which case it shall not be a law.

3. Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. VIII. Congress shall have power—

1. To lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defence and general welfare of the United States ; but all duties, imposts and excises, shal

He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows :

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in congress ; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. The electors shall meet in their respective states and vote by ballot, for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of the persons voted for, and the number of votes for each ; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president ; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from

12. To raise and support armies ; but no appropriation of money to that use shall be for a longer term than two years ;

13. To provide and maintain a navy ; [*See 1 Mason, 79, 81. 4 Binn. 487.*]

14. To make rules for the government and regulation of the land and naval forces ;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions ; [*5 Wheat. 1. 19 Johns. 7.*]

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress ; [*3 S. and R. 169. 5 Wheat. 1. 19 Johns. 7.*]

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States ; and to exercise like authority over all places, purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings ;—and [*See 2 Mason. 60. 5 Wheat. 317, 324. 6 Wheat 440. Jour. of Jurisp. 47, 56. 17 Johns. 225.*]

18. To make all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by this

constitution in the government of the United States, or in any department or officer thereof. [4 *Wheat.* 413. 6 *Wheat.* 204.]

Sec. IX. 1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by congress, prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law, shall be passed. [See 3 *Dallas*, 386, 396. 6 *Binn.* 271.]

4. No capitation or other direct tax, shall be laid, unless in proportion to the census or enumeration, herein before directed to be taken. [See 5 *Wheat.* 317. 3 *Dall.* 171.]

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state, be obliged to enter, clear, or pay duties in another.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person holding any office

of profit or trust under them, shall, without the consent of congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sec. X. 1. No state shall enter into any treaty, alliance or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make any thing but gold and silver coin a tender in payment of debts ; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts ; or grant any title of nobility. [See 8 *Wheat.* 84, 92, 256, n. 464. 5 *Wheat.* 420. 4 *Wheat.* 518, 122, 209. 6 *Wheat.* 131. 16 *Johns.* 233. 13 *Mass.* 16. 7 *Johns. Ch. R.* 297. 2 *Cowen*, 626.]

2. No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws ; and the nett produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States ; and all such laws shall be subject to the revision and control of congress. No state shall, without the consent of congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

OF THE PRESIDENT.

Sec. I. 1. The executive power shall be vested in a president of the United States of America.

He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows :

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in congress ; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. The electors shall meet in their respective states and vote by ballot, for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of the persons voted for, and the number of votes for each ; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president ; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from

each state having one vote: A quorum for this purpose shall consist of a member or members of two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more, who have equal votes, the senate shall choose from them, by ballot, the vice-president. [*This clause altogether altered and supplied by the XIIth amendment.*]

4. Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States. [*So also as to the vice-president. See XIIth amendment, post.*]

6. In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president; and congress may, by law, provide for the case of removal, death, resignation or inability, both of the president and vice-president declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

7. The president shall at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected ; and he shall not receive within that period, any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation :

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

Sec. II. 1. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states ; when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices ; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur ; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be estab-

lished by law. But congress may, by law, vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

3. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

Sec. III. He shall, from time to time, give to congress information of the state of the Union, and recommend to their consideration such measures, as he shall judge necessary and expedient; he may on extraordinary occasions, convene both houses, or either of them, and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors, and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States. [*1 Cranch, 137.*]

Sec. IV. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

OF THE JUDICIARY.

Sec. I. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as congress may, from time to time, ordain and establish. The judges, both

the supreme and inferior courts shall hold their offices during good behaviour, and shall at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. [*See 7 Johns. Ch. R. 303*]

Sec. II. 1. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof and foreign states, citizens or subjects. [*See 2 Dall. 297. 6 Wheat. 4, 405. 2 Mason, 472, 9 Wheat. 819*]

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as congress shall make. [*5 S. and R. 545. 1 Binn. 8.*]

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not com-

constitution, between the states so ratifying the same.

Done in Convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord, one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON, *President*,
and Deputy from Virginia.

New Hampshire.

John Langdon,
Nicholas Gilman.

Massachusetts.

Nathaniel Gorham,
Rufus King.

Connecticut.

William Samuel Johnson.
Roger Sherman.

New York.

Alexander Hamilton.

New Jersey.

William Livingston,
David Bearly,
William Patterson,
Jonathan Dayton.

Pennsylvania.

Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimmons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

Delaware.

George Read,
Gunning Bedford, Jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

Maryland.

James M'Henry,
Daniel of St. Tho. Jenifer,
Charles Carroll.

Virginia.

John Blair,
James Madison, Jun.

North Carolina.

William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

South Carolina.

John Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

Georgia.

William Few,
Abraham Baldwin.

Attest,

WILLIAM JACKSON, *Sec'ry.*

OF FUGITIVES FROM JUSTICE.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. [*See 4 Johns. Ch. R. 106.*]

OF FUGITIVE SLAVES.

3. No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up, on the claim of the party to whom such service or labour may be due. [*See 2 S. and R. 306. 3 S. and R. 4. 5 S. and R. 62.*]

OF THE ADMISSION OF NEW STATES.

Sect. III. 1. New states may be admitted by congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of congress.

OF TERRITORIES.

2. Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property, belonging to the United States; and nothing in this constitution

presentment or indictment in cases arising in the militia, when in or public danger; nor for the same offence of life or limb; nor in criminal case, to be nor be deprived of without due process of law be taken for publiction. [18 *Johns.* 18509. 2 *Dall.* 312. and *R.* 382.]

Art. 6. In all criminal cases accused shall enjoy the trial, by an impartial wherein the crime which district shall be determined by law; and the cause of the accusation the witnesses against the process for obtaining to have the assistance

Art. 7. In suits of value in controversy the right of trial by jury no fact tried by a jury shall be removed in any court of the United States, excepting to the rules of the Supreme Court. [*Wheat.* 674.]

Art. 8. Excessive bail shall not be required, nor excessive fine nor excessive punishment inflicted.

Art. 9. The enumeration

RULES

REGULATING BUSINESS OF THE UNITED STATES

1. The president having the honor to receive, the president shall be read, to the court, and it is ordered that shall be

2. A member shall speak in the course of the business of the court, while the president is presiding, or when any one of the members is presiding.

3. A member shall speak in the course of the business of the court, while the president is presiding, or when any one of the members is presiding.

4. A member shall speak in the course of the business of the court, while the president is presiding, or when any one of the members is presiding.

5. A member shall speak in the course of the business of the court, while the president is presiding, or when any one of the members is presiding.

6. A member shall speak in the course of the business of the court, while the president is presiding, or when any one of the members is presiding.

7. A member shall speak in the course of the business of the court, while the president is presiding, or when any one of the members is presiding.

ARTICLE VI.

OF PUBLIC DEBT.

Sect. I. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

OF THE SUPREME LAW OF THE LAND.

Sect. II. This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

OF THE CONSTITUTIONAL OATH, AND A RELIGIOUS TEST.

Sect. III. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office, or public trust, under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this

constitution, between the states so ratifying t
same.

Done in Convention, by the unanimous consent of
states present, the seventeenth day of September, in
year of our Lord, one thousand seven hundred s
eighty-seven, and of the Independence of the Uni
States of America, the twelfth. In witness whereof,
have hereunto subscribed our names.

GEORGE WASHINGTON, *President*
and Deputy from Virginia.

New Hampshire.

John Langdon,
Nicholas Gilman.

Massachusetts.

Nathaniel Gorham,
Rufus King.

Connecticut.

William Samuel Johnson.
Roger Sherman.

New York.

Alexander Hamilton.

New Jersey.

William Livingston,
David Bearly,
William Patterson,
Jonathan Dayton.

Pennsylvania.

Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimmons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

Delaware.

George Read,
Gunning Bedford, Jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

Maryland.

James M'Henry,
Daniel of St. Tho. Jenifer,
Charles Carroll.

Virginia.

John Blair,
James Madison, Jun.

North Carolina.

William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

South Carolina.

John Rutledge,
Charles Cotesworth Pinckn
Charles Pinckney,
Pierce Butler.

Georgia.

William Few,
Abraham Baldwin.

Attest,

WILLIAM JACKSON, *Sec'ry.*

AMENDMENTS.

The following articles proposed by congress, in addition to, and amendment of the constitution of the United States, having been ratified by the legislatures of two thirds of the states, are become a part of the constitution.

First Congress, First Session, March 5, 1789.

Art. 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for redress of grievances. (*See 3 Yeates, 520.*)

Art. 2. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Art. 3. No soldier shall in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Art. 4. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [*3 Cranch, 448, 453. 6 Binn. 316.*]

Art. 5. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a

presentment or indiotment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger ; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property, without due process of law ; nor shall private property be taken for public use, without just compensation. [18 *Johns.* 187. 3 *Yeates*, 362. 6 *Binn.* 509. 2 *Dall.* 312. 2 *Johns. Ch. R.* 164. 1 *S. and R.* 382.]

Art. 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law ; and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have compulsory process for obtaining witnesses in his favour ; and to have the assistance of counsel for his defence.

Art. 7. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved ; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law. [See 8 *Wheat.* 674.]

Art. 8. Excessive bail shall not be required, nor excessive fine imposed, nor cruel and unusual punishments inflicted.

Art. 9. The enumeration in the constitution of

tain rights shall not be construed to deny or disparage others retained by the people.

Art. 10. The powers not delegated to the United States by the constitution, nor prohibited to the states, are reserved to the states respectively, or to the people.

Third Congress, Second Session, Dec. 2, 1793.

Art. 11. The judicial power of the United States shall not be construed to extend to any suit at law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state. (*See 6 Wheat. 405.*)

Eighth Congress, first Session, Oct. 17, 1803.

Art. 12. The electors shall meet in their respective states,* and vote by ballot, for president and vice-president; one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots, the person voted for as president, and in distinct ballots, the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed,† to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house

* On the first Wednesday in December, by Act of Congress, 1st March, 1792.

† Before the first Wednesday in January, by the same act.

of representatives, open all the certificates,* and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed. And if no person have such majority, then, from the persons having the highest numbers, not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president; but in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice; and if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.

* On the second Wednesday in February, by the same act.

[The following article was proposed by congress to the several states for their adoption as part of the constitution, and has been ratified by the state of Pennsylvania, and some of the other states, but had not, in March 1825, been ratified by the number of states required by the fifth article of the constitution, and is therefore as yet, no part of the constitution of the United States.]

*Eleventh Congress, Second Session, November
27th, 1809.*

Art. 13. If any citizen of the United States shall accept, claim, receive or retain any title of nobility or honour, or shall, without the consent of congress, accept and retain any present, pension, office or emolument of any kind whatever, from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them. [*See Const. U. S. Art. 1, s. ix. p. 13.*]

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RULES

FOR CONDUCTING BUSINESS IN THE SENATE OF THE UNITED STATES.

1. The president having taken the chair, and a quorum being present, the journal of the preceding day shall be read, to the end that any mistake may be corrected that shall be made in the entries.

2. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper, while the journals or public papers are reading, or when any member is speaking in any debate.

3. Every member, when he speaks, shall address the chair, standing in his place, and when he has finished shall sit down.

4. No member shall speak more than twice, in any one debate, on the same day, without leave of the senate.

5. When two members rise at the same time, the president shall name the person to speak; but in all cases the member who shall first rise and address the chair, shall speak first.

6. When a member shall be called to order, by the president, or a senator, he shall sit down; and every question out of order shall be decided by the president without debate, subject to an appeal to the senate; and the president may call for the sense of the senate on any question of order.

7. If the member be called to order by a senator, for words spoken, the exceptionable words

shall immediately be taken down in writing, that the president may be better enabled to judge of the matter.

8. No member shall absent himself from the service of the senate, without leave of the senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorised to send the sergeant-at-arms, or any other person or persons by them authorised, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made, as the senate, when a quorum is convened, shall judge sufficient ; and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the senate at the legal time of meeting, as to each day of the session, after the hour has arrived to which the senate stood adjourned.

9. No motion shall be debated until the same shall be seconded.

10. When a motion shall be made and seconded, it shall be reduced to writing, if desired by the president, or any member, delivered in at the table, and read, before the same shall be debated.

11. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend ; which several motions shall have precedence in the order they stand arranged, and the motion for adjournment shall always be in order, and be decided without debate.

12. If the question in debate contain several points, any member may have the same divided ;

but, on a motion to strike out and insert it shall not be in order to move for a division of the question; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor prevent a subsequent motion, simply to strike out; nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert.

13. In filling up blanks, the largest sum and longest time shall be first put.

14. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the senate, and without debate.

15. The unfinished business in which the senate was engaged at the last preceding adjournment, shall have the preference in the special orders of the day.

16. When the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reason he be excused by the senate, declare openly, and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the house, the names of the members shall be taken alphabetically.

17. When the yeas and nays shall be taken upon any question, in pursuance of the above rule, no member shall be permitted, under any circumstances whatever to vote after the decision is announced from the chair.

18. On a motion made and seconded to shut the doors of the senate, on the discussion of any

RULES OF THE SENATE.

business which may, in the opinion of a member, require secrecy, the president shall direct the gallery to be cleared; and, during the discussion of such motion, the doors shall remain shut.

19. No motion shall be deemed in order, to admit any person or persons whatsoever within the doors of the senate chamber to present any petition, memorial, or address, or to hear any such read:

20. When a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the re-consideration thereof: but no motion for the re-consideration of any vote shall be in order after a bill, resolution, message, report, amendment, or motion, upon which the vote was taken; shall have gone out of the possession of the senate, announcing their decision: nor shall any motion for reconsideration be in order, unless made on the same day on which the vote was taken, or within the two next days of actual session of the senate thereafter.

21. When the senate are equally divided, the secretary shall take the decision of the president:

22. All questions shall be put by the president of the senate, either in the presence or absence of the president of the United States, and the senators shall signify their assent or dissent, by answering aye or no:

23. The vice-president, or president of the senate pro tempore, shall have the right to name a member to perform the duties of the chair; but such substitution shall not extend beyond an adjournment.

24. After the journal is read, the president shall first call for petitions, and then for reports from

*
standing committees ; and every petition or memorial, or other paper, shall be referred of course, without putting a question for that purpose, unless the reference is objected to by a member at the time such petition, memorial, or other paper, is presented—and before any petition or memorial, addressed to the senate, shall be received and read at the table, whether the same shall be introduced by the president or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.

25. One day's notice, at least, shall be given of an intended motion for leave to bring in a bill ; and all bills *reported by a committee*, shall, after the first reading, be printed for the use of the senate : but no other paper or document shall be printed for the use of the senate without special order.

26. Every bill shall receive three readings previous to its being passed ; and the president shall give notice at each, whether it be the first, second or third ; which readings shall be on three different days, unless the senate unanimously direct otherwise. And all resolutions proposing amendments to the constitution, or to which the approbation and signature of the president may be requisite, or which may grant money out of the contingent, or any other fund, shall be treated, in all respects, in the introduction and form of proceedings on them, in the senate, in a similar manner with bills : *and all other resolutions shall lie on the table one day for consideration, and also reports of committees.*

27. No bill shall be committed or amended un-

shall have been twice read; after which it shall be referred to a committee.

All bills on a second reading shall first be considered by the senate in the same manner as if the senate were in committee of the whole, before the bill shall be taken up and proceeded on by the senate agreeably to the standing rules, unless otherwise ordered. And when the senate shall consider a treaty, bill, or resolution, as in committee of the whole, the vice-president, or president pro tempore, may call a member to fill the chair, during the time the senate shall remain in committee of the whole; and the chairman so called during such time, have the powers of a president pro tempore.

The final question, upon the second reading of every bill, resolution, constitutional amendment, or motion, originating in the senate, and after three readings previous to being passed, shall be, "Whether it shall be engrossed and read a third time?" and no amendment shall be received in discussion at the third reading of any bill, resolution, amendment, or motion, unless by unanimous consent of the members present: but it shall be in order, before the final passage of such bill, resolution, constitutional amendment, or motion, to move its commitment; and after such commitment take place, and any amendment be reported by the committee, the said bill, resolution, constitutional amendment, or motion shall be again read a second time, and considered as in committee of the whole, and then the said question shall be again put.

The special orders of the day shall not be

called by the Chair before one o'clock, unless otherwise directed by the senate.

31. The titles of bills, and such parts thereof only as shall be affected by proposed amendments, shall be inserted on the journals.

32. The proceedings of the senate, when not acting as in committee of the whole, shall be entered on the journal as concisely as possible, care being taken to detail a true and accurate account of the proceedings: but every vote of the senate shall be entered on the journal; and a brief statement of the contents of each petition, memorial, or paper, presented to the senate, shall also be inserted on the journal.

33. The following Standing Committees, to consist of five members each, shall be appointed at the commencement of each session, with leave to report by bill or otherwise.

A Committee on Foreign Relations.

A Committee on Finance.

A Committee on Commerce.

A Committee on Manufactures.

A Committee on Agriculture.

A Committee on Military Affairs.

A Committee on the Militia.

A Committee on Naval Affairs.

A Committee on Public Lands.

A Committee on Private Land Claims.

A Committee on Indian Affairs.

A Committee of Claims.

A Committee on Revolutionary Claims.

A Committee on the Judiciary.

A Committee on the Post-Office and Post-roads.

A Committee on Roads and Canals.

A Committee on Pensions.

A Committee on the District of Columbia.

A Committee on Patents and the Patent Office.

A Committee of three members whose duty it shall be to audit and control the contingent expenses of the senate.

And a Committee, consisting of three members, whose duty it shall be to examine all bills, amendments, resolutions, or motions, before they go out of possession of the senate, and shall deliver the same to the secretary of the senate, who shall enter upon the journal that the same have been correctly engrossed.

34. In the appointment of the standing committees, the senate will proceed, by *ballot*, severally, to appoint the chairman of each committee, and then, by one ballot, the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a *standing committee*. All *other* committees shall be appointed by ballot, and a plurality of votes shall make a choice. When any subject or matter shall have been referred to a committee, any other subject or matter of a similar nature may, on motion, be referred to such committee.

35. When motions are made for reference of the same subject to a select committee, and to a standing committee, the question on reference to the standing committee shall be first put.

36. When nominations shall be made in writing by the President of the United States to the senate, a future day shall be assigned, unless the senate unanimously direct otherwise, for taking

them into consideration. When the president of the United States shall meet the senate in the senate chamber, the president of the senate shall have a chair on the floor, be considered the head of the senate, and his chair shall be assigned to the president of the United States. When the senate shall be convened by the president of the United States to any other place, the president of the senate and senators shall attend at the place so appointed. The secretary of the senate shall attend to take the minutes of the senate.

37. Whenever a treaty shall be laid before the senate for ratification, it shall be read a first time for information only; when no motion to ratify, or modify the whole or any part, shall be received. Its second reading shall be for consideration, and on a subsequent day; when it shall be taken up, as in committee of the whole, and every senator shall be free to move a question on any particular article, in this form: "Will the senate ratify and consent to the ratification of this article, and to propose amendments thereto, either by adding or by leaving out words; in which case the question shall be, "Shall these words stand as part of the article?" And in every of these cases, the concurrence of two-thirds of the senators present shall be requisite to decide affirmatively. And when through the whole, the proceedings shall be stated to the House, and propositions shall be again severally put thereon for confirmation, or new ones proposed requiring, in the same manner, a concurrence of two-thirds, for which is retained or inserted; the votes so counted shall, by the House, or a committee there-

luced into the form of a ratification, with or without modifications, as may have been decided, and shall be proposed on a subsequent day, when every one shall again be free to move amendments, either by inserting or leaving out words; in which case, the question shall be, "Shall these words stand as part of the resolution?" And in such cases the concurrence of two-thirds shall be requisite to carry the affirmative, as well as on the final question, to advise and consent to the ratification in the form agreed to.

38. All confidential communications, made by the president of the United States to the senate, shall be by the members thereof kept secret; and all treaties which may be laid before the senate, shall also be kept secret, until the senate shall, by their resolution, take off the injunction of secrecy.

39. All information or remarks, touching or concerning the character or qualifications of any person nominated by the president to office, shall be kept secret.

40. When acting on confidential or executive business, the senate shall be cleared of all persons, except the secretary, the principal or the executive clerk, the sergeant-at-arms, and door-keeper, and the assistant door-keeper.

41. The legislative proceedings, the executive proceedings, and the confidential legislative proceedings, of the senate, shall be kept in separate and distinct books.

42. The president of the United States shall, from time to time, be furnished with an authenticated transcript of the executive records of the senate; and all nominations approved, or definitively

acted on by the senate, shall be returned by the secretary, from day to day, as such proceedings may occur; but no further extract from the executive journal shall be furnished, except by special order; and no paper, except original treaties transmitted to the senate by the president of the United States, or any executive officer, shall be returned or delivered from the office of the secretary, without an order of the senate for that purpose.

43. When an amendment to be proposed to the constitution is under consideration, the concurrence of two-thirds of the members present shall not be requisite to decide any question for amendments, or extending to the merits, being short of the final question.

44. When any question may have been decided by the senate, in which two-thirds of the members present are necessary to carry the affirmative, any member, who votes on that side which prevailed in the question, may be at liberty to move for a re-consideration; and a motion for re-consideration shall be decided by a majority of votes.

45. Messages shall be sent to the house of representatives by the secretary, who shall previously endorse the final determination of the senate thereon.

46. Messengers are introduced in any state of business, except while a question is putting, while the yeas and nays are calling, or while the ballots are counting.

47. The reporters shall be placed on the floor of the senate, under the direction of the secretary.

No person, except members of the house of representatives, their clerk, heads of departments, treasurer, comptrollers, register, auditors, postmaster general, president's secretary, chaplains to congress, judges of the United States, foreign ministers and their secretaries, officers who, by name, have received, or shall hereafter receive, the thanks of congress for their gallantry and good conduct displayed in the service of their country, who have received medals by the vote of congress, the commissioners of the navy board, commissioner of patents, governor, for the time being, of any state or territory of the Union, judges of the supreme courts of law and equity of any state, such gentlemen as have been heads of departments or members of either branch of the legislature, and at the discretion of the president of the senate, persons who belong to such legislatures of foreign governments, as are in amity with the United States, shall be admitted on the floor of the senate.

48. The presiding officer of the senate shall have the regulation of such parts of the capitol and of its passages, as are, or may be set apart for the use of the senate and its officers.

49. The secretary of the senate, the sergeant-at-arms, and door-keeper, and the assistant door-keeper, shall be chosen on the second Monday of the first session of the 21st congress, and on the same day of the first session of every succeeding congress.

JOINT RULES

AND ORDERS OF THE TWO HOUSES.

1. In every case of an amendment of a bill agreed to in one house, and dissented to in the other, if either house shall request a conference, and appoint a committee for that purpose, and the other house shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed on by their chairman, meet in the conference chamber, and state to each other verbally, or in writing, as either shall choose, the reasons of their respective houses, for and against the amendment, and confer freely thereon.

2. When a message shall be sent from the senate to the house of representatives, it shall be announced at the door of the house by the door-keeper, and shall be respectfully communicated to the chair, by the person by whom it may be sent.

3. The same ceremony shall be observed, when a message shall be sent from the house of representatives to the senate.

4. Messages shall be sent by such persons, as a sense of propriety in each house may determine to be proper.

5. While bills are on their passage between the two houses, they shall be on paper, and under the signature of the secretary or clerk of each house,

6. A bill shall have passed both houses it shall be enrolled on parchment, by the clerk

f the house of representatives, or the secretary f the senate, as the bill may have originated in the one or the other house, before it shall be presented to the president of the United States.

7. When bills are enrolled, they shall be examined by a joint committee of two from the senate, and two from the house of representatives, appointed as a standing committee for that purpose, who shall carefully compare the enrolment with the engrossed bills, as passed in the two houses, and, correcting any errors that may be discovered in the enrolled bills, make their report forthwith to their respective houses.

8. After examination and report, each bill shall be signed in the respective houses, first by the speaker of the house of representatives, then by the president of the senate.

9. After a bill shall have been thus signed in each house, it shall be presented by the said committee to the president of the United States, for his approbation, it being first endorsed on the back of the roll, certifying in which house the same originated: which endorsement shall be signed by the secretary or clerk (as the case may be) of the house in which the same did originate, and shall be entered on the journal of each house. The said committee shall report the day of presentation to the president, which time shall also be carefully entered on the journal of each house.

10. All orders, resolutions, and votes, which are to be presented to the president of the United States for his approbation, shall, also, in the same manner, be previously enrolled, examined, and

signed, and shall be presented in the same manner, and by the same committee, as provided in cases of bills.

11. When the senate and house of representatives shall judge it proper to make a joint address to the president, it shall be presented to him in his audience chamber, by the president of the senate, in the presence of the speaker and both houses.

12. When a bill or resolution, which shall have passed in one house, is rejected in the other, notice thereof shall be given to the house in which the same shall have passed.

13. When a bill or resolution, which has been passed in one house, shall be rejected in the other, it shall not be brought in during the same session, without a notice of ten days, and leave of two-thirds of that house in which it shall be renewed.

14. Each house shall transmit to the other all papers on which any bill or resolution shall be founded.

15. After each house shall have adhered to their disagreement, a bill or resolution shall be lost.

16. No bill that shall have passed one house, shall be sent for concurrence to the other, on either of the three last days of the session.

17. No bill or resolution, that shall have passed the house of representatives and the senate, shall be presented to the president of the United States, for his approbation, on the last day of the session.

18. When bills which have passed one house are ordered to be printed in the other, a greater

number of copies shall not be printed than may be necessary for the use of the house making the order.

19. No spiritous liquors shall be offered for sale, or exhibited within the capitol, or on the public grounds adjacent thereto.



STANDING RULES

AND

ORDERS FOR CONDUCTING BUSINESS IN THE
HOUSE OF REPRESENTATIVES OF THE
UNITED STATES.



Touching the duty of the Speaker.

1. He shall take the chair every day precisely at the hour to which the house shall have adjourned on the preceding day ; shall immediately call the members to order ; and, on the appearance of quorum, shall cause the journal of the preceding day to be read.

2. He shall preserve order and decorum ; may suspend to points of order in preference to other business ; rising from his seat for that purpose ; and shall decide questions of order, subject to an

appeal to the house by any two members; on which appeal no member shall speak more than once, unless by leave of the house.

3. He shall rise to put a question, but may state it sitting.

4. Questions shall be distinctly put in this form, to wit: "As many as are of opinion that (as the question may be,) say Ay;" and, after the affirmative voice is expressed, "As many as are of the contrary opinion say No." If the speaker doubts, or a division be called for, the house shall divide: those in the affirmative of the question shall first rise from their seats, and afterwards those in the negative. If the speaker still doubts, or a count be required, the speaker shall name two members, one from each side, to tell the members in the affirmative, which being reported, shall then name two others, one from each side, to tell those in the negative, which being also reported, he shall rise and state the decision to the house. No division and count of the house by tellers shall be in order, but upon motion seconded by at least one-fifth of a quorum of the members.

5. When any motion or proposition is made the question, "Will the house now consider it?" shall not be put, unless it is demanded by some member, or is deemed necessary by the speaker.

6. The speaker shall examine and correct the journal before it is read. He shall have a general direction of the hall. He shall have a right to name any member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.

7. All committees shall be appointed by the speaker, unless otherwise specially directed by the house, in which case they shall be appointed by ballot; and if, upon such ballot, the number required shall not be elected by a majority of the votes given, the house shall proceed to a second ballot, in which a plurality of votes shall prevail; and, in case a greater number than is required to compose or complete a committee shall have an equal number of votes, the house shall proceed to a further ballot or ballots.

8. In all other cases of ballot than for committees, a majority of the votes given shall be necessary to an election; and where there shall not be such a majority on the first ballot, the ballot shall be repeated until a majority be obtained. And in all ballottings blanks shall be rejected and not taken into the count in the enumeration of votes, or reported by the tellers.

9. In all cases of ballot by the house, the speaker shall vote: in other cases he shall not vote, unless the house be equally divided, or unless his vote, if given to the minority, will make the division equal; and in case of such equal division, the question shall be lost.

10. In all cases where other than members of the house may be eligible to an office by the election of the house, there shall be a previous nomination.

11. All acts, addresses, and joint resolutions, shall be signed by the speaker; and all writs, warrants, and subpoenas, issued by order of the house, shall be under his hand and seal, attested by the clerk.

acted on by the senate, shall be returned by the secretary, from day to day, as such proceedings may occur; but no further extract from the executive journal shall be furnished, except by special order; and no paper, except original treaties transmitted to the senate by the president of the United States, or any executive officer, shall be returned or delivered from the office of the secretary, without an order of the senate for that purpose.

43. When an amendment to be proposed to the constitution is under consideration, the concurrence of two-thirds of the members present shall not be requisite to decide any question for amendments, or extending to the merits, being short of the final question.

44. When any question may have been decided by the senate, in which two-thirds of the members present are necessary to carry the affirmative, any member, who votes on that side which prevailed in the question, may be at liberty to move for a re-consideration; and a motion for re-consideration shall be decided by a majority of votes.

45. Messages shall be sent to the house of representatives by the secretary, who shall previously endorse the final determination of the senate thereon.

46. Messengers are introduced in any state of business, except while a question is putting, while the yeas and nays are calling, or while the ballots are counting.

47. The reporters shall be placed on the floor of the senate, under the direction of the secretary.

bills, resolutions, and reports, which originated in the house, and at the close of the next preceding session remained undetermined, shall be resumed and acted on, in the same manner as if an adjournment had not taken place.

Order of business of the day.

16. As soon as the journal is read, the speaker shall call for petitions from the members of each state, and delegates from each territory, beginning with Maine, and the territory of Wisconsin, alternately; and if, on any day, the whole of the states and territories shall not be called, the speaker shall begin on the next day where he left off the previous day. Provided, that, after the first thirty days of the session, petitions shall not be received except on the first day of the meeting of the house in each week.

17. The petitions having been presented and disposed of, reports from committees shall be called for and disposed of, in doing which the speaker shall call upon each standing committee, in the order they are named in the 58th and 85th rules; and, when all the standing committees have been called on, then it shall be the duty of the speaker to call for reports from select committees; if the speaker shall not get through the call upon the committees before the house passes to other business he shall resume the next call where he left off. Resolutions shall then be called for in the same order, and disposed of by the same rules which apply to petitions: provided, that no member shall offer more than one resolution, or one

series of resolutions all relating to the same subject, until all the states and territories shall have been called.

18. After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the house do now proceed to dispose of the business on the speaker's table, and to the orders of the day which, being decided in the affirmative, the speaker shall dispose of the business on his table in the following order, viz.

- 1st. Messages and other Executive communications.
- 2d. Messages from the senate, and amendments proposed by the senate to bills of the house.
- 3d. Bills and resolutions from the senate on the first and second reading, that they be referred to committees and put under way; but if, being read a second time, no motion be made to commit, they are to be ordered to their third reading, unless objection be made; in which case, if not otherwise ordered by a majority of the house, they are to be laid on the table in the general file of bills on the speaker's table to be taken up in their turn.
- 4th. Engrossed bills and bills from the senate on their third reading.
- 5th. Bills of the house and from the senate, on the speaker's table, on their engrossment, or on being ordered to a third reading, to be taken

and considered in the order of time in which they passed to a second reading.

The messages, communications, and bills on his table having been disposed of, the speaker shall then proceed to call the orders of the day.

19. The business specified in the two preceding rules shall be done at no other part of the day, except by permission of the house.

Local or Private Business.

20. Friday and Saturday in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the house.

Of Decorum and Debate.

21. When any member is about to speak in debate, or deliver any matter to the house, he shall rise from his seat, and respectfully address himself to "Mr. Speaker," and shall confine himself to the question under debate, and avoid personality.

22. If any member, in speaking or otherwise, transgress the rules of the house, the speaker shall, or any member may, call to order; in which case, the member so called to order shall immediately sit down, unless permitted to explain; and the house shall, if appealed to, decide on the case, but without debate: if there be no appeal, the decision of the chair shall be submitted to. If the decision be in favour of the member called to order, he shall be at liberty to proceed; if otherwise,

he shall not be permitted to proceed in case any member object, without leave of the house; and, if the case require it, he shall be liable to the censure of the house.

23. If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the clerk's table; and no member shall be held to answer, or be subject to the censure of the house, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken.

24. When two or more members happen to rise at once, the speaker shall name the member who is first to speak.

25. No member shall speak more than twice to the same question, without leave of the house, nor more than once until every member choosing to speak shall have spoken.

26. If a question depending be lost by adjournment of the house, and revived on the succeeding day, no member, who shall have spoken twice on the preceding day, shall be permitted again to speak without leave.

27. Whilst the speaker is putting any question or addressing the house, none shall walk out of or across the house; nor, in such case, or when a member is speaking, shall entertain private discourse; nor, whilst a member is speaking, shall pass between him and the chair. Every member shall remain uncovered during the sessions of the house. No member or other person shall visit or

remain by the clerk's table while the ayes or noes are calling, or ballots are counting.

28. No member shall vote on any question in the event of which he is immediately and particularly interested, or in any case where he was not within the bar of the house when the question was put. And when any member shall ask leave to vote, the speaker shall propound to him the question—“ *Were you within the bar when your name was called?*”

29. Upon a division and count of the house on any question, no member without the bar shall be counted.

30. Every member who shall be in the house when the question is put, shall give his vote, unless the house, for special reasons, shall excuse him. All motions to excuse a member from voting, shall be made before the house divides, or before the call of the yeas and nays is commenced; and any member requesting to be excused from voting, may make a brief verbal statement of the reasons for making such request, and the question shall then be taken without further debate.

31. When a motion is made and seconded, it shall be stated by the speaker; or, being in writing, it shall be handed to the chair, and read aloud by the clerk, before debated.

32. Every motion shall be reduced to writing, if the speaker or any member desire it.

33. After a motion is stated by the speaker, or read by the clerk, it shall be deemed to be in the possession of the house, but may be withdrawn at any time before a decision or amendment.

45. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the house.

46. The unfinished business in which the house was engaged at the last preceding adjournment shall have the preference in the orders of the day; and no motion on any other business, shall be received, without special leave of the house, until the former is disposed of.

47. Every order, resolution, or vote, to which the concurrence of the senate shall be necessary, shall be read to the house, and laid on the table, on a day preceding that in which the same shall be moved, unless the house shall otherwise expressly allow.

48. Petitions, memorials, and other papers addressed to the house, shall be presented by the speaker, or by a member in his place; a brief statement of the contents thereof shall be made verbally by the introducer; they shall not be debated on the day of their being presented; nor on any day assigned by the house for the receipt of petitions after the first thirty days of the session; unless where the house shall direct otherwise, but shall lie on the table, to be taken up in the order in which they were presented.

49. A proposition requesting information from the president of the United States, or directing it to be furnished by the head of either of the executive departments, or by the post-master general, or to print an extra number of any document or other matter, excepting messages of the president to both houses at the commencement of each session of congress, and the reports and documents

HOUSE OF REPRESENTATIVES.

cted with or referred to in it, shall li
one day for consideration, unless otherwise
ed by the unanimous consent of the house ;
all such propositions shall be taken up for
leration in the order they were presented,
diately after reports are called for from select
ittees ; and, when adopted, the clerk shall
the same to be delivered.

Any fifteen members (including the speak-
there be one) shall be authorised to compel
attendance of absent members.

Upon calls of the house, or in taking the
and nays on any question, the names of the
ers shall be called alphabetically.

Any member may excuse himself from serv-
n any committee at the time of his appoint-
if he is then a member of two other com-
es.

No member shall absent himself from the
e of the house, unless he have leave, or be
ind unable to attend.

Upon the call of the house, the names of
embers shall be called over by the clerk, and
bsentees noted ; after which, the names of
osentees shall again be called over, the doors
then be shut, and those for whom no excuse,
ufficient excuses are made, may, by order of
present, if fifteen in number, be taken into
dy as they appear, or may be sent for, and
into custody, wherever to be found, by spe-
essengers to be appointed for that purpose.

When a member shall be discharged from
dy and admitted to his seat, the house shall
nine whether such discharge shall be with or

without paying fees; and in like manner, whether a delinquent member, taken into custody a special messenger, shall, or shall not, be liable to defray the expense of such special messenger.

56. A sergeant-at-arms shall be appointed to hold his office during the pleasure of the house, whose duty it shall be to attend the house during its sittings; to execute the commands of the house from time to time; together with such process, issued by authority thereof as may be directed to him by the speaker.

57. The fees of the sergeant-at-arms shall be for every arrest the sum of two dollars; for every day's custody and releasement, one dollar; for travelling expenses for himself or a special messenger, going and returning, one-tenth dollar per mile.

58. Twenty-seven standing committees shall be appointed at the commencement of each session, viz :

To consist of nine Members each.

A Committee of Elections.

A Committee of Ways and Means.

A Committee of Claims.

A Committee of Commerce,

A Committee on the Public Lands.

A Committee on the Post Office and Roads.

A Committee for the District of Columbia

A Committee on the Judiciary.

A Committee on Revolutionary Claims.

A Committee on Public Expenditures.

A Committee on Private Land Claims.

- A Committee on Manufactures.
- A Committee on Agriculture.
- A Committee on Indian Affairs.
- A Committee on Military Affairs.
- A Committee on the Militia.
- A Committee on Naval Affairs.
- A Committee on Foreign Affairs.
- A Committee on the Territories.
- A Committee on Revolutionary Pensions.
- A Committee on Invalid Pensions.
- A Committee on Roads and Canals.

To consist of five members each.

- A Committee on Patents.
- A Committee on Public Buildings and Grounds.
- A Committee on Revisal and Unfinished Business.
- A Committee of Accounts.
- A Committee on Mileage.

59. It shall be the duty of the committee of elections to examine and report upon the certificates of election, or other credentials of the members returned to serve in this house; and to take into their consideration all such petitions, and other matters touching elections and returns, as shall or may be presented, or come into question, and be referred to them by the house.

60. It shall be the duty of the committee of ways and means to take into consideration all such reports of the treasury department, and all such propositions relative to the revenue, as may be referred to them by the house; to inquire into the state of the public debt, or the revenue, and of the expenditure; and to report, from time to time,

their opinion thereon ; [to examine into the state of the several public departments, and particularly into the law making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws ; and also to report from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers.]*

In preparing bills of appropriations for other objects, the committee of ways and means shall not include appropriations for carrying into effect treaties made by the United States ; and where an appropriation bill shall be referred to them for their consideration, which contains appropriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects.

61. It shall also be the duty of the committee of ways and means, within thirty days after their appointment, at every session of congress, commencing on the first Monday of December, to report the general appropriation bills—for the civil

* That portion of the duty of the committee of ways and means, which is printed within brackets, was, originally, adopted on the 7th January, 1802. On the 26th February, 1814, the committee on public expenditures was created, and added to the list of standing committees ; the duties of this latter committee are exactly those contained in that portion of the duties of the committee of ways and means which are referred to in this note as within brackets.—See Rule 71, *The words ought to be stricken from the specification of the duties of the committee of ways and means.*

and diplomatic expenses of the government; for the army; for the navy; and for the Indian department and Indian annuities; or in failure thereof, the reasons of such failure.

62. General appropriation bills shall be in order in preference to any other bills of a public nature, unless otherwise ordered by a majority of the house.

63. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorised by law.

64. It shall be the duty of the committee of claims to take into consideration all such petitions and matters or things touching claims and demands on the United States, as shall be presented, or shall or may come in question, and be referred to them by the house; and to report their opinion thereupon, together with such propositions for relief therein as to them shall seem expedient.

65. It shall be the duty of the committee on commerce to take into consideration all such petitions and matters or things touching the commerce of the United States, as shall be presented, or shall or may come into question, and be referred to them by the house; and to report, from time to time, their opinion thereon.

66. It shall be the duty of the committee on the public lands to take into consideration all such petitions and matters or things respecting the lands of the United States, as shall be presented, or shall or may come in question, and be referred to them by the house; and to report their opinion

he shall not be permitted to proceed in case any member object, without leave of the house; and, if the case require it, he shall be liable to the censure of the house.

23. If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the clerk's table; and no member shall be held to answer, or be subject to the censure of the house, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken.

24. When two or more members happen to rise at once, the speaker shall name the member who is first to speak.

25. No member shall speak more than twice to the same question, without leave of the house, nor more than once until every member choosing to speak shall have spoken.

26. If a question depending be lost by adjournment of the house, and revived on the succeeding day, no member, who shall have spoken twice on the preceding day, shall be permitted again to speak without leave.

27. Whilst the speaker is putting any question or addressing the house, none shall walk out of or across the house; nor, in such case, or when a member is speaking, shall entertain private discourse; nor, whilst a member is speaking, shall pass between him and the chair. Every member shall remain uncovered during the sessions of the house. No member or other person shall visit or

opinion thereupon, together with such propositions for relief therein as to them shall seem expedient.

71. It shall be the duty of the committee on public expenditures to examine into the state of the several public departments, and particularly into laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of the officers.*

72. It shall be the duty of the committee on private land claims to take into consideration all claims to land which may be referred to them, or shall or may come in question; and to report their opinion thereupon together with such propositions for relief therein as to them shall seem expedient.

73. It shall be the duty of the committee on military affairs to take into consideration all subjects relating to the military establishment and public defence, which may be referred to them by the house, and to report their opinion thereupon; and also to report, from time to time, such measures as may contribute to economy and accountability in the said establishment.

74. It shall be the duty of the committee of

* See Note to Rule 60:—And farther, on the 30th March, 1816, six committees on expenditures in the several departments of the government, were created and added to the list of standing committees. The duties assigned to these several committees, would seem, entirely, to cover the duties of the committee on public expenditures. See Rules 86 and 87.

the militia to take into consideration and report on all subjects connected with the organizing, arming, and disciplining, the militia of the United States.

75. It shall be the duty of the committee on naval affairs to take into consideration all matters which concern the naval establishment, and which shall be referred to them by the house, and to report their opinion thereupon; and also, to report, from time to time, such measures as may contribute to economy and accountability in the said establishment.

76. It shall be the duty of the committee on foreign affairs to take into consideration all matters which concern the relations of the United States with foreign nations, and which shall be referred to them by the house, and to report their opinion on the same.

77. It shall be the duty of the committee on the territories to examine into the legislative, civil, and criminal proceedings of the territories, and to devise and report to the house such means as, in their opinion, may be necessary to secure the rights and privileges of residents and non-residents.

78. It shall be the duty of the committee on revolutionary pensions to take into consideration all such matters respecting pensions for services in the revolutionary war, other than invalid pensions, as shall be referred to them by the house.

79. It shall be the duty of the committee on invalid pensions to take into consideration all such matters respecting invalid pensions as shall be referred to them by the house.

80. It shall be the duty of the committee on roads and canals to take into consideration all such petitions and matters or things relating to roads and canals, and the improvement of the navigation of rivers, as shall be presented, or may come in question, and be referred to them by the house; and to report thereupon, together with such propositions relative thereto as to them shall seem expedient.

81. It shall be the duty of the committee on patents to consider all subjects relating to patents which may be referred to them, and report their opinion thereon, together with such propositions relative thereto as may seem to them expedient.

82. It shall be the duty of the committee on public buildings and grounds to consider all subjects relating to the public edifices and grounds within the city of Washington which may be referred to them, and report their opinion thereon, together with such propositions relating thereto as may seem to them expedient.

83. It shall be the duty of the committee of revision and unfinished business to examine and report what laws have expired, or are near expiring, and require to be revived or further continued; and, to examine and report, from the journal of each session, all such matters as were then depending and undetermined.

84. It shall be the duty of the committee of accounts to superintend and control the expenditures of the contingent fund of the house of representatives, and to audit and settle all accounts which may be charged thereon; and also to audit the accounts of the members for their travel to and

45. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the house.

46. The unfinished business in which the house was engaged at the last preceding adjournment shall have the preference in the orders of the day; and no motion on any other business, shall be received, without special leave of the house, until the former is disposed of.

47. Every order, resolution, or vote, to which the concurrence of the senate shall be necessary, shall be read to the house, and laid on the table, on a day preceding that in which the same shall be moved, unless the house shall otherwise expressly allow.

48. Petitions, memorials, and other papers addressed to the house, shall be presented by the speaker, or by a member in his place; a brief statement of the contents thereof shall be made verbally by the introducer; they shall not be debated on the day of their being presented; nor on any day assigned by the house for the receipt of petitions after the first thirty days of the session, unless where the house shall direct otherwise, but shall lie on the table, to be taken up in the order in which they were presented.

49. A proposition requesting information from the president of the United States, or directing it to be furnished by the head of either of the executive departments, or by the post-master general, or to print an extra number of any document or other matter, excepting messages of the president to both houses at the commencement of each session of congress, and the reports and documents

6. A committee on so much of the public accounts and expenditures as relate to the public buildings.

87. It shall be the duty of the said committees to examine into the state of the accounts and expenditures respectively submitted to them, and to inquire and report particularly—

Whether the expenditures of the respective departments are justified by law :

Whether the claims from time to time satisfied and discharged by the respective departments are supported by sufficient vouchers, establishing their justness both as to their character and amount :

Whether such claims have been discharged out of funds appropriated therefor ; and whether all moneys have been disbursed in conformity with appropriation laws : and .

Whether any, and what, provisions are necessary to be adopted, to provide more perfectly for the proper application of the public moneys, and to secure the government from demands unjust in their character, or extravagant in their amount .

And it shall be, moreover, the duty of the said committees to report, from time to time, whether any, and what, retrenchment can be made in the expenditures of the several departments, without detriment to the public service ; whether any, and what, abuses at any time exist in the failure to enforce the payment of moneys which may be due to the United States from public defaulters or others : and to report, from time to time, such provisions and arrangements as may be necessary to

add to the economy of the several departments, and the accountability of their officers.*

88. The several standing committees of the house shall have leave to report by bill or otherwise.

89. No committee shall sit during the sitting of the house, without special leave.

90. The clerk of the house shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities, and shall be deemed to continue in office until another be appointed.

91. It shall be the duty of the clerk to make, and cause to be printed and delivered to each member, at the commencement of every session of congress, a list of the reports which it is the duty of any officer or department of the government to make to congress; referring to the act or resolution, and page of the volume of the Laws or Journal in which it may be contained; and placing under the name of each officer the list of reports required of him to be made, and the time when the report may be expected.

92. It shall be the duty of the clerk of the house, at the end of each session, to send a printed copy of the journals thereof to the executive and to each branch of the legislature, of every state.

93. All questions of order shall be noted by the clerk, with the decision, and put together at the end of the journal of every session.

94. Whenever confidential communications ar

* See notes to Rules 60 and 71.

received from the president of the United States, the house shall be cleared of all persons, except the members, clerk, sergeant-at-arms, and door-keeper, and so continue during the reading of such communications, and (unless otherwise directed by the house) during all debates and proceedings to be had thereon. And when the speaker, or any other member shall inform the house that he has communications to make, which he conceives ought to be kept secret, the house shall in like manner be cleared, till the communication be made; the house shall then determine whether the matter communicated requires secrecy or not, and take order accordingly.

95. The sergeant-at-arms and the doorkeeper shall be sworn to keep the secrets of the house.

96. All questions relating to the priority of business to be acted on shall be decided without debate.

OF BILLS.

97. Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion; and the motion shall be made, and the bill introduced, if leave is given when resolutions are called for: such motion, or the bill when introduced, may be committed.

98. Every bill shall receive three several readings in the house, previous to its passage; and bills shall be despatched in order as they were introduced, unless where the house shall direct

otherwise; but no bill shall be twice read on the same day, without special order of the house.

99. The first reading of a bill shall be for information; and, if opposition be made to it, the question shall be, "Shall this bill be rejected?" If no opposition be made, or if the question be rejected or negatived, the bill shall go to its second reading without a question.

100. Upon the second reading of a bill, the speaker shall state it as ready for commitment or engrossment; and if committed, then a question shall be, whether to a select or standing committee, or to a committee of the whole house: if to a committee of the whole house, the house shall determine on what day; if no motion be made to commit, the question shall be stated on its engrossment; and if it be not ordered to be engrossed on the day of its being reported, it shall be placed in the general file on the speaker's table, to be taken up in its order. But, if the bill be ordered to be engrossed, the house shall appoint the day when it shall be read the third time.

101. Not more than three bills, originating in the house, shall be committed to the same committee of the whole; and such bills shall be analogous in their nature, which analogy shall be determined by the speaker.

102. After commitment and report thereof to the house, or at any time before its passage, a bill may be recommitted.

103. All bills ordered to be engrossed shall be executed in a fair round hand.

104. No amendment by way of *rider* shall be received to any bill on its third reading.

- A Committee on Manufactures.
- A Committee on Agriculture.
- A Committee on Indian Affairs.
- A Committee on Military Affairs.
- A Committee on the Militia.
- A Committee on Naval Affairs.
- A Committee on Foreign Affairs.
- A Committee on the Territories.
- A Committee on Revolutionary Pensions.
- A Committee on Invalid Pensions.
- A Committee on Roads and Canals.

To consist of five members each.

- A Committee on Patents.
- A Committee on Public Buildings and Grounds.
- A Committee on Revisal and Unfinished Business.
- A Committee of Accounts.
- A Committee on Mileage.

59. It shall be the duty of the committee of elections to examine and report upon the certificates of election, or other credentials of the members returned to serve in this house; and to take into their consideration all such petitions, and other matters touching elections and returns, as shall or may be presented, or come into question, and be referred to them by the house.

60. It shall be the duty of the committee of ways and means to take into consideration all such reports of the treasury department, and all such propositions relative to the revenue, as may be referred to them by the house; to inquire into the state of the public debt, or the revenue, and of the expenditure; and to report, from time to time,

blanks, the largest sum and longest time shall be first put.

112. No motion or proposition for a tax or charge upon the people shall be discussed the day in which it is made or offered; and every such proposition shall receive its first discussion in a committee of the whole house.

113. No sum or quantum of tax or duty, voted by a committee of the whole house, shall be increased in the House until the motion or proposition for such increase shall be first discussed and voted in a committee of the whole house; and so in respect to the time of its continuance.

114. All proceedings touching appropriations of money shall be first discussed in a committee of the whole house.

115. The rules of proceedings in the house shall be observed in a committee of the whole house, so far as they may be applicable, except the rule limiting the time of speaking; but no member shall speak twice to any question, until every member choosing to speak shall have spoken.

116. No standing rule or order of the house shall be rescinded or changed without one day's notice being given of the motion therefor. Nor shall any rule be suspended, except by a vote of at least two-thirds of the members present. Nor shall the order of business, as established by the rules of the house, be postponed or changed, except by a vote of at least two-thirds of the members present.

117. It shall be in order for the committee on enrolled bills to report at any time.

118. The rules of parliamentary practice, com-

ised in Jefferson's Manual, shall govern the use in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the house, and the present rules of the senate and house of representatives.

119. No person shall be permitted to perform vine service in the chamber occupied by the use of representatives, unless with the consent of the speaker.

120. The rule for paying witnesses summoned to appear before this house, or either of its committees, shall be as follows: for each day a witness shall attend, the sum of two dollars; for each mile he shall travel in coming to or going from the place of examination, the sum of ten cents each way; but nothing shall be paid for travelling home when the witness has been summoned at the place of trial.

121. The clerk shall, within thirty days after the close of each session of congress, cause to be completed the printing and primary distribution, to members and delegates, of the Journal of the house, together with an accurate index to the same.—(*Order of June 18th, 1832.*)

122. There shall be retained in the library of the clerk's office, for the use of the members there, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited in the library.—(*Order of December 22d, 1826.*)

123. The clerk shall have preserved for each member of the house, an extra copy, in good binding, of all the documents printed by order of either

thereon, together with such propositions for relief therein as to them shall seem expedient.

67. It shall be the duty of the committee on the post office and post roads to take into consideration all such petitions and matters or things touching the post office and post roads, as shall be presented, or may come in question, and be referred to them by the house; and to report their opinion thereupon, together with such propositions relative thereto as to them shall seem expedient.

68. It shall be the duty of the committee for the District of Columbia to take into consideration all such petitions and matters or things touching the said district, as shall be presented, or shall come in question, and be referred to them by the house; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient.

69. It shall be the duty of the committee on the judiciary to take into consideration such petitions and matters or things touching judicial proceedings as shall be presented, or may come in question, and be referred to them by the house; and to report their opinion thereupon, together with such propositions relative thereto as to them shall seem expedient.

70. It shall be the duty of the committee on revolutionary claims to take into consideration all such petitions and matters or things touching claims and demands originating in the revolutionary war, or arising therefrom, as shall be presented, or shall or may come in question, and be referred to them by the house; and to report their

M A N U A L
OF
PARLIAMENTARY PRACTICE,
FOR
THE USE OF THE SENATE
OF THE
UNITED STATES.

EXTRACT FROM THE RULES OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

The rules of parliamentary practice, comprised in Jefferson's Manual shall govern the house in all cases to which they are applicable; and in which they are not inconsistent with the standing rules and orders of the house, and joint rules of the Senate and House of Representatives: (Adopted Sept. 15th, 1837.)

TABLE OF CONTENTS.

SECTION	1. Rules, importance of.
	2. Legislature.
	3. Privilege.
	4. Elections.
	5. Qualifications.
	6. Quorum.
	7. Call of the House.
	8. Absence.
	9. Speaker.
	10. Address.
	11. Committees.
	12. Committee of the Whole.
	13. Examination before Committees, &c.
	14. Arrangement of Business.
	15. Order.
	16. Order, respecting papers.
	17. Order, in debate.
	18. Orders of the House.
	19. Petitions.
	20. Motions.
	21. Resolutions.
	22. Bills. Reading.
	23. " Leave to bring in.
	24. " First reading.
	25. " Second reading.
	26. " Commitment.
	27. " Report of Committee.
	28. " Recommitment.
	29. " Report taken up.
	30. " Quasi Committee.
	31. " Second reading in the House.
	32. " Reading papers.
	33. " Privileged questions.

SECTION	34.	Bills.	Previous question.
	35.	"	Amendments.
	36.	"	Division of question.
	37.	"	Co-existing questions.
	38.	"	Equivalent questions.
	39.	"	The question.
	40.	"	Third reading.
	41.	"	Division of the House.
	42.	"	Title.
	43.		Reconsideration.
	44.		Bills sent to the other House.
	45.		Amendments between the Houses.
	46.		Conferences.
	47.		Messages.
	48.		Assent.
	49.		Journals.
	50.		Adjournment.
	51.		Session.
	52.		Treaties.
	53.		Impeachment.

P R E F A C E.

The Constitution of the United States, establishing a legislature for the Union under certain forms, authorizes each branch of it 'to determine the rules of its own proceedings.' The Senate have accordingly formed some rules for its own government: but these going only to few cases, they have referred to the decision of their President, without debate and without appeal, all questions of order arising either under their own rules, or where they have provided none. This places under the discretion of the President a very extensive field of decision, and one which, irregularly exercised, would have a powerful effect on the proceedings and determinations of the House. The President must feel, weightily and seriously, this confidence in his discretion; and the necessity of recurring, for its government, to some known system of rules, that he may neither leave himself free to indulge caprice or passion, nor open to the imputation of them. But to what system of rules is he to recur, as supplementary to those of the Senate? To this there can be but one answer. To the system of regulations adopted for the government of some one of the parliamentary bodies within these States, or of that which has served as a prototype to most of them. This last is the model which we have all studied, while we are little acquainted with the modifications of it in our several states. It is deposited,

add to the economy of the several departments, and the accountability of their officers.*

88. The several standing committees of the house shall have leave to report by bill or otherwise:

89. No committee shall sit during the sitting of the house, without special leave:

90. The clerk of the house shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities, and shall be deemed to continue in office until another be appointed.

91. It shall be the duty of the clerk to make, and cause to be printed and delivered to each member, at the commencement of every session of congress, a list of the reports which it is the duty of any officer or department of the government to make to congress; referring to the act or resolution, and page of the volume of the Laws or Journal in which it may be contained; and placing under the name of each officer the list of reports required of him to be made, and the time when the report may be expected.

92. It shall be the duty of the clerk of the house, at the end of each session, to send a printed copy of the journals thereof to the executive, and to each branch of the legislature, of every state.

93. All questions of order shall be noted by the clerk, with the decision, and put together at the end of the journal of every session.

94. Whenever confidential communications are

* See notes to Rules 60 and 71.

received from the president of the United States, the house shall be cleared of all persons, except the members, clerk, sergeant-at-arms, and door-keeper, and so continue during the reading of such communications, and (unless otherwise directed by the house) during all debates and proceedings to be had thereon. And when the speaker, or any other member shall inform the house that he has communications to make, which he conceives ought to be kept secret, the house shall in like manner be cleared, till the communication be made; the house shall then determine whether the matter communicated requires secrecy or not, and take order accordingly.

95. The sergeant-at-arms and the doorkeeper shall be sworn to keep the secrets of the house.

96. All questions relating to the priority of business to be acted on shall be decided without debate.

OF BILLS.

97. Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion; and the motion shall be made, and the bill introduced, if leave is given when resolutions are called for: such motion, or the bill when introduced, may be committed.

98. Every bill shall receive three several readings in the house, previous to its passage; and bills shall be despatched in order as they were introduced, unless where the house shall direct

A MANUAL

OF

PARLIAMENTARY PRACTICE.

IMPORTANCE OF RULES.

SEC. I.—THE IMPORTANCE OF ADHERING TO RULES.

Mr. Onslow, the ablest among the speakers of the House of Commons, used to say, "it was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rule proceeding: that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were in many instances, a shelter and protection to the minority, against the attempts of power. So far the maxim is certainly true, and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any proper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attacks from those in power, are the forms and rule

proceeding, which have been adopted as they were found necessary, from time to time, and are become the law of the House; by a strict adherence to which, the weaker party can only be protected from those irregularities and abuses, which these forms were intended to check, and which the wantonness of power is but too often apt to suggest to large and successful majorities. 2 *Hats.* 171, 172.

And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the speaker, or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body. 2 *Hats.* 149.

SEC. II.—LEGISLATURE.

[All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. *Constitution of the United States, Art. 1. Sect. 1.*]

[The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. *Constitution of the United States. Art. 1. Sect. 6.*]

[For the powers of Congress, see the following Articles and Sections of the Constitution of the United States. I. 4. 7. 8. 9. II. 1. 2. III. 3. IV. 1. 3. 5. and all the amendments.]

SEC. III.—PRIVILEGE.

The Privileges of Members of Parliament, from small and obscure beginnings, have been advancing for centuries with a firm and never yielding pace. Claims seem to have been brought forward, from time to time, and repeated, till some example of their admission enabled them to build law on that example. We can only therefore state the points of progression at which they now are. It is now acknowledged, 1st. That they are at all times exempted from question elsewhere for any thing said in their own house; that during the time of privilege, 2d. Neither a member himself, his* wife, or his servants, (*familiares sui*) for any matter of their own, may be† arrested on mesne process, in any civil suit: 3d. Nor be detained under execution, though levied before time of privilege: 4th. Nor impleaded, cited, or subpoenaed in any court: 5th. Nor summoned as a witness or juror: 6th. Nor may their lands or goods be distrained: 7th. Nor their persons assaulted, or characters traduced. And the period of time, covered by privilege, before and after the session, with the practice of short prorogations under the connivance of the crown, amounts in fact to a perpetual protection against the course of justice. In one instance indeed it has been relaxed by the 10 G. 3, c. 50, which permits judiciary proceedings to go on against them. That these privileges must be continually progressive, seems to result from their rejecting all definition

* Order of the house of commons, 1663, July 16.

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of them ; the doctrine being that “ their dignity and independence are preserved by keeping their privileges indefinite ; and that ‘ the maxims upon which they proceed, together with the method of proceeding, rest entirely in their own breast, and are not defined and ascertained by any particular stated laws.’ ” 1 *Blackst.* 163, 164.

[It was probably from this view of the encroaching character of privilege, that the framers of our Constitution, in their care to provide that the laws shall bind equally on all, and especially that those who make them shall not exempt themselves from their operation, have only privileged “ senators and representatives ” themselves from the single act of “ arrest in all cases, except treason, felony and breach of the peace, during their attendance at the session of their respective houses, and in going to and returning from the same, and from being questioned in any other place for any speech or debate in either house.” *Const. U. S., Art. 1, Sec. 6.* Under the general authority “ to make all laws necessary and proper for carrying into execution the powers given them,” *Const. U. S., Art. 2, Sec. 8,* they may provide by law the details which may be necessary for giving full effect to the enjoyment of this privilege. No such law being as yet made, it seems to stand at present on the following ground. 1. The act of arrest is void, *ab initio*.* 2. The member arrested may be discharged on motion, 1 *Bl.* 166, 2 *Stra.* 990, or by habeas corpus under the federal or state authority, as the case may be ; or by a writ of privilege out

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of the Chancery, 2 *Stra.* 989, in those states which have adopted that part of the laws of England.—

Orders of the House of Commons, 1550, February

20. 3. The arrest being unlawful, is a trespass for which the officer and others concerned are liable to action or indictment in the ordinary courts of justice, as in other cases of unauthorised arrest.

4. The court before which the process is returnable is bound to act as in other cases of unauthorised proceeding, and liable also, as in other similar cases, to have their proceedings stayed or corrected by the superior courts.]

[The time necessary for going to, and returning from, congress, not being defined, it will, of course, be judged of in every particular case by those who will have to decide the case.] While privilege was understood in England to extend, as it does here, only to exemption from arrest, *eundo, morando, et redeundo*, the house of commons themselves decided that “a convenient time was to be understood.” (1580,) 1 *Hats.* 99, 100. Nor is the law so strict in point of time as to require the party to set out immediately on his return, but allows him time to settle his private affairs, and to prepare for his journey; and does not even scan his road very nicely, nor forfeit his protection for a little deviation from that which is most direct; some necessity perhaps constraining him to it. 2 *Stra.* 986, 987.

This privilege from arrest, privileges of course against all process the disobedience to which is punishable by an attachment of the person; as a *subpœna ad respondendum, or testificandum*, or a *summons* on a jury; and with reason; because a

member has superior duties to perform in another place. [When a representative is withdrawn from his seat by summons, the 40,000 people whom he represents lose their voice in debate and vote, as they do on his voluntary absence: when a senator is withdrawn by summons, his state loses half its voice in debate and vote, as it does on his voluntary absence. The enormous disparity of evil admits no comparison.]

[So far there will probably be no difference of opinion as to the privileges of the two houses of congress: but in the following cases it is otherwise. In December, 1795, the house of representatives committed two persons of the name of Randall and Whitney, for attempting to corrupt the integrity of certain members; which they considered as a contempt and breach of the privileges of the house; and the facts being proved, Whitney was detained in confinement a fortnight, and Randall three weeks, and was reprimanded by the speaker. In March, 1796, the house of representatives voted a challenge given to a member of their house to be a breach of the privileges of the house; but satisfactory apologies and acknowledgments being made, no further proceeding was had. The editor of the Aurora having, in his paper of February 19, 1800, inserted some paragraphs defamatory of the senate, and failed in his appearance, he was ordered to be committed. In debating the legality of this order, it was insisted, in support of it, that every man, by the law of nature, and every body of men, possesses the right of self-defence; that all public functionaries are essentially invested with the powers of self-preser-

vation ; that they have an inherent right to do all acts necessary to keep themselves in a condition to discharge the trusts confided to them ; that whenever authorities are given, the means of carrying them into execution are given by necessary implication ; that thus we see the British parliament exercise the right of punishing contempts ; all the state legislatures exercise the same power ; and every court does the same ; that, if we have it not, we sit at the mercy of every intruder who may enter our doors or gallery, and, by noise and tumult, render proceeding in business impracticable ; that if our tranquillity is to be perpetually disturbed by newspaper defamation, it will not be possible to exercise our functions with the requisite coolness and deliberation ; and that we must therefore have a power to punish these disturbers of our peace and proceedings. To this it was answered, that the parliament and courts of England have cognisance of contempts by the express provisions of their law ; that the state legislatures have equal authority, because their powers are plenary ; they represent their constituents completely, and possess all their powers, except such as their constitutions have expressly denied them ; that the courts of the several states have the same powers by the laws of their states, and those of the federal government by the same state laws adopted in each state, by a law of congress ; that none of these bodies, therefore, derive those powers from natural or necessary right, but from express law ; that congress have no such natural or necessary power, nor any powers but such as are *given* them by the Constitution ; that that has

given them, directly, exemption from personal arrest, exemption from question elsewhere for what is said in their house, and power over their own members and proceedings; for these no further law is necessary, the constitution being the law; that, moreover, by that article of the constitution which authorises them "to make all laws necessary and proper for carrying into execution the powers vested by the constitution in them," they may provide by law for an undisturbed exercise of their functions, c. g. for the punishment of contempts, of affrays or tumult in their presence, &c. but, till the law be made, it does not exist; and does not exist, from their own neglect; that, in the mean time, however, that they are not unprotected, the ordinary magistrates and courts of law being open and competent to punish all unjustifiable disturbances or defamations, and even their own sergeant, who may appoint deputies ad libitum to aid him, 3 *Grey*, 59, 147, 255, is equal to small disturbances; that in requiring a previous law, the constitution had regard to the inviolability of the citizen, as well as of the member; as, should one house in the regular form of a bill, aim at too broad privileges, it may be checked by the other, and both by the president; and also as, the law being promulgated, the citizen will know how to avoid offence. But if one branch may assume its own privileges without control, if it may do it on the spur of the occasion, conceal the law in its own breast, and after the fact committed, make its sentence both the law and the judgment on that fact; if the offence is to be kept undefined, and to be declared only *ex re nata*, and accord-

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For any speech or debate in either house, they shall not be questioned in any other place. *Const. U. S. I. 6. S. P. protest of the Commons to James I. 1621. 2 Rapin. No. 54. p. 211, 212.* But this is restrained to things done in the house in a parliamentary course. 1 *Rush. 663.* For he is not to have privilege contra morem parliamentarium, to exceed the bounds and limits of his place and duty. *Com. p.*

If an offence be committed by a member in the house, of which the house has cognizance, it is an infringement of their right for any person or court to take notice of it, till the house has punished the offender, or referred him to a due course. *Lex Parl. 63.*

Privilege is in the power of the house, and is a restraint to the proceeding of inferior courts; but not of the house itself. 2 *Nelson, 450. 2 Grey, 399.* For whatever is spoken in the house is subject to the censure of the house; and offences of this kind have been severely punished by calling the person to the bar to make submission, committing him to the tower, expelling the house, &c. *Scob. 72. L. Parl. c. 22.*

It is a breach of order for the speaker to refuse to put a question which is in order. 2 *Hats. 175, 6. 5 Grey, 133.*

And even in cases of treason, felony and breach of the peace, to which privilege does not extend as to substance, yet in parliament a member is

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take notice of any bills or other matters depending, or of votes that have been given, or of speeches which have been held, by the members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner. 2 *Hats.* 252. 4 *Inst.* 15. *Seld. Jud.* 53. Thus the king's taking notice of the bill, for suppressing soldiers, depending before the house; his proposing a provisional clause for a bill before it was presented to him by the two houses; his expressing displeasure against some persons for matters moved in parliament during the debate and preparation of a bill, were breaches of privilege; 2 *Nelson*, 743; and in 1783, December 17, it was declared a breach of fundamental privileges, &c. to report any opinion pretended opinion of the king, on any bill or seeding depending in either house of parliament with a view to influence the votes of the 2 *Hats.* 251, 6.

SECT. IV.—ELECTIONS.

es, places, and manner of holding elections, senators and representatives, shall be in each state by the legislature thereof; Congress may at any time by law make or provisions, except as to the places of [Const. I. 4.]

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ing to the passions of the moment, and there no limitation either in the manner or measure of the punishment, the condition of the citizen be perilous indeed. Which of these doctrines to prevail, time will decide. Where there is no fixed law, the judgment on any particular case is the law of that single case only, and dies with it. When a new and even a similar case arises, a new judgment which is to make, and at the same time to apply the law, is open to question and consideration, as are all new laws. Perhaps congress at the mean time, in their care for the safety of the citizen, as well as that for their own protection, may declare by law what is necessary and proper to enable them to carry into execution the powers vested in them, and thereby hang up a law for the inspection of all, which may direct the conduct of the citizen, and at the same time test the judgments they shall themselves pronounce in their own case.]

Privilege from arrest takes place by force of election; and before a return be made a member elected may be named of a committee, and every intent a member, except that he cannot vote until he is sworn. *Memor.* 107, 108. *D'Alton* 642, col. 2. 643, col. 1. *Pet. Miscel. Parl. Lex. Parl. c.* 25. 2 *Hats.* 22, 62.

Every man must, at his peril, take notice that members of either house returned of record. *Lex. Parl.* 23. 4 *inst.* 24.

On complaint of a breach of privilege, the member may either be summoned, or sent for in custody of the sergeant. 1 *Grey*, 88, 95.

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the house. If the member waive it without leave, it is a ground for punishing him, but cannot in effect waive the privilege of the house. 3 *Grey*, 140, 222.

For any speech or debate in either house, they shall not be questioned in any other place. *Const. U. S. I. 6. S. P. protest of the Commons to James I.* 1621. 2 *Rapin. No. 54. p.* 211, 212. But this is restrained to things done in the house in a parliamentary course. 1 *Rush.* 663. For he is not to have privilege contra morem parliamentarium; to exceed the bounds and limits of his place and duty. *Com. p.*

If an offence be committed by a member in the house, of which the house has cognizance, it is an infringement of their right for any person or court to take notice of it, till the house has punished the offender, or referred him to a due course. *Lex Parl.* 63.

Privilege is in the power of the house, and is a restraint to the proceeding of inferior courts; but not of the house itself. 2 *Nelson*, 450. 2 *Grey*, 399. For whatever is spoken in the house is subject to the censure of the house; and offences of this kind have been severely punished by calling the person to the bar to make submission, committing him to the tower, expelling the house, &c. *Scob.* 72. *L. Parl. c.* 22.

It is a breach of order for the speaker to refuse to put a question which is in order. 2 *Hats.* 175, 6. 5 *Grey*, 133.

And even in cases of treason, felony and breach of the peace, to which privilege does not extend as to substance, yet in parliament a member is

privileged as to the mode of proceeding. The case is first to be laid before the house, that it may judge of the fact and of the grounds of the accusation and how far forth the manner of the trial may concern their privilege. Otherwise it would be in the power of other branches of the government, and even of every private man, under pretences of treason, &c. to take any man from his service in the house, and so as many, one after another, as would make the house what he pleaseth. *Dec. of the Com on the King's declaring Sir John Hotham a traitor.* 4 *Rushw.* 586. So when a member stood indicted for felony, it was adjudged that he ought to remain of the house till conviction. For it may be any man's case, who is guiltless, to be accused and indicted of felony, or the like crime. 23 *El.* 158 *D'Ewes*, 283. *col.* 1. *Lex Parl.* 133.

When it is found necessary for the public service to put a member under arrest, or when, on a public inquiry, matter comes out which may lead to affect the person of a member, it is the practice immediately to acquaint the house that they may know the reasons for such a proceeding, and take such steps as they think proper. 2 *Hats.* 259. (which see many examples. *Ib.* 256, 257, 258. But the communication is subsequent to the arrest. *Blackst.* 167.

It is highly expedient, says Hatsell, for the due preservation of the privileges of the separate branches of the legislature, that neither should encroach on the other, or interfere in any matter depending before them, so as to preclude, or even influence that freedom of debate, which is essential to a free council. They are therefore not to

take notice of any bills or other matters depending, or of votes that have been given, or of speeches which have been held, by the members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner. 2 *Hats.* 252. 4 *Inst.* 15. *Seld. Jud.* 53. Thus the king's taking notice of the bill, for suppressing soldiers, depending before the house; his proposing a provisional clause for a bill before it was presented to him by the two houses; his expressing displeasure against some persons for matters moved in parliament during the debate and preparation of a bill, were breaches of privilege; 2 *Nelson*, 743; and in 1783, December 17, it was declared a breach of fundamental privileges, &c. to report any opinion or pretended opinion of the king, on any bill or proceeding depending in either house of parliament, with a view to influence the votes of the members. 2 *Hats.* 251, 6.

SECT. IV.—ELECTIONS.

[The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators. *Const.* I. 4.]

[Each house shall be the judge of the elections, returns, and qualifications of its own members. *Const.* I. 5.]

SECT. V.—QUALIFICATIONS.

[The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years, and each senator shall have one vote.]

[Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the end of the 2d year; of the second class at the expiration of the 4th year; and of the third class at the expiration of the 6th year; so that one-third may be chosen every second year, and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.]

[No person shall be a senator who shall not have attained to the age of 30 years, and be seven years a citizen of the United States, and who, when elected, be an inhabitant of that state for which he shall be chosen: *Const. I. 3.*]

[The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications required for electors of the most numerous branch of the state legislature.]

[No person shall be a representative who shall not have attained to the age of 25 years, and be seven years a citizen of the United States

who shall not, when elected, be an inhabitant of that state in which he shall be chosen.]

[Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers; which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative. *Constitution of the U. States, I. 2.*]

[The provisional apportionments of representatives made in the constitution in 1787, and afterwards by congress, were as follows :

STATES.	1787 ^a	1790 ^b	1800 ^c	1810 ^d	1820 ^e	1830 ^f
Maine (<i>g</i>)	0	0	0	0	7	8
New Hampshire	3	4	5	6	6	8
Massachusetts	8	14	17	20	13	15
Rhode Island	1	2	2	2	2	2
Connecticut	5	7	7	7	6	6
Vermont	0	2	4	6	5	5
New York	6	10	17	27	34	40
New Jersey	4	5	6	6	6	6
Pennsylvania	8	13	18	23	26	28
Delaware	1	1	1	2	1	1
Maryland	6	8	9	9	9	8
Virginia	10	19	22	28	22	20
North Carolina	5	10	12	13	13	15
South Carolina	5	6	8	9	9	9
Georgia	3	2	4	6	7	7
Kentucky	0	2	6	10	12	15
Tennessee (<i>h</i>)	0	0	3	6	9	11
Ohio (<i>j</i>)	0	0	0	6	14	15
Louisiana (<i>k</i>)	0	0	0	0	3	4
Indiana (<i>l</i>)	0	0	0	0	3	4
Mississippi (<i>m</i>)	0	0	0	0	1	2
Illinois (<i>n</i>)	0	0	0	0	1	2
Alabama (<i>o</i>)	0	0	0	0	3	4
Missouri (<i>p</i>)	0	0	0	0	0	1
Michigan (<i>q</i>)	0	0	0	0	0	1
Arkansas (<i>r</i>)	0	0	0	0	0	1

(a) As per constitution.

(b) As per act of April 14, 1792, one representative 33,000, first census.

(c) As per act of January 14, 1802, one representative 33,000, second census.

(d) As per act of December 21, 1811, one representative for 35,000, third census.

(e) As per act of March 7, 1822, one representative 40,000, fourth census.

(f) As per act of May 22, 1832, one representative 47,700, fifth census.

[When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

I. 2.]

[No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emo-

(g) Previous to the 3d March, 1820, Maine formed a part of Massachusetts, and was called *the District of Maine*, and its representatives are numbered with those of Massachusetts. By compact between Maine and Massachusetts, Maine became a separate and independent state, and by act of congress of 3d March, 1820, was admitted into the Union as such; the admission to take place on the 15th of the same month. On the 7th of April, 1820, Maine was declared entitled to seven representatives, to be taken from those of Massachusetts.

(h) Admitted under act of congress of June 1st, 1796, with one representative.

(j) Admitted under act of congress of April 30, 1802, with one representative.

(k) Admitted under act of congress of April 8, 1812, with one representative.

(l) Admitted under act of congress of December 11, 1816, with one representative.

(m) Admitted under act of congress of December 10, 1817, with one representative.

(n) Admitted under act of congress of December 3, 1818, with one representative.

(o) Admitted under act of congress of December 14, 1819, with one representative.

(p) Admitted under act of congress of March 2, 1821, with one representative.

(q) Admitted under act of congress of January 26, 1837, with one representative.

(r) Admitted under act of congress of June 15, 1836, with one representative.

luments whercof sh~~all~~ have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office. *Const. I. 6.*]

SEC. VI.—QUORUM.

[A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide. *Const. I. 5.*]

In general, the chair is not to be taken till a quorum for business is present; unless, after due waiting, such a quorum be despaired of, when the chair may be taken and the house adjourned. And whenever, during business, it is observed that a quorum is not present, any member may call for the house to be counted, and being found deficient, business is suspended. 2 *Hats.* 125, 126.

[The president having taken the chair, and a quorum being present, the journal of the preceding day shall be read, to the end that any mistake may be corrected that shall have been made in the entries. *Rules of the Senate.*]

SEC. VII.—CALL OF THE HOUSE.

On a call of the house, each person rises up as he is called and answereth; the absentees are then only noted, but no excuse to be made till the house be fully called over. Then the absentees are called a second time, and if still absent, ex-

cuses are to be heard. *Ord. House of Commons, 92.*

They rise that their persons may be recognised; the voice, in such a crowd, being an insufficient verification of their presence. But in so small a body as the senate of the United States, the trouble of rising cannot be necessary.

Orders for calls on different days may subsist at the same time. 2 *Hats. 72.*

SEC. VIII.—ABSENCE.

[No member shall absent himself from the service of the senate, without leave of the senate first obtained. And in case a less number than a quorum of the senate shall convene, they are hereby authorised to send the sergeant-at-arms, or any other person or persons by them authorised, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made, as the senate, when a quorum is convened, shall judge sufficient: and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the senate, at the legal time of meeting, as to each day of the session, after the hour is arrived, to which the senate stood adjourned. *Rule 8.*]

SEC. IX.—SPEAKER.

[The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided. *Constitution, I. 3.*]

[The senate shall choose their officers, and also a *president pro tempore* in the absence of the vice-

president, or when he shall exercise the of
 president of the United States. *Constitution*

[The house of representatives shall choose
 speaker and other officers. *Const. I. 2.*]

When but one person is proposed, and no
 tion made, it has not been usual in parliam
 put any question to the house; but wit
 question, the members proposing him condu
 to the chair. But if there be objection, or a
 proposed, a question is put by the clerk. 2
 158. As are also questions of adjournment. (406.
 406. Where the house debated and excl
 messages and answers with the king for a
 without a speaker, till they were prorogued.
 have done it de die in diem for 14 days. 1 (331,
 335.

[In the senate, a president pro tempore
 absence of the vice-president is proposed as
 sen by ballot. His office is understood to
 terminated on the vice-president's appeari
 taking the chair, or at the meeting of the
 after the first recess.]

Where the speaker has been ill, other s
 pro tempore have been appointed. Instar
 this, are 1 *H. 4.* Sir John Cheyney, and
 William Sturton, and in 15 *H. 6.* Sir Job
 rel, in 1656, January 27, 1658. March 9
 January 18.

Sir Job Charlton ill, Seymour
 chosen 1673, Feb. 18.

Seymour being ill, Sir Robert
 Sawyer chosen, 1678, April 15.

Sawyer being ill, Seymour cho-
 sen.

Not
 pro te
 1 *Chan*
 276, 2

Thorpe in execution, a new speaker chosen.— 31 *H. VI.* 3 *Grey*, 11, and Mar. 14, 1694, Sir John Trevor chosen. There have been no later instances. 2 *Hats.* 161. 4 *Inst.* 8 *L. Parl.* 263.

A speaker may be removed at the will of the house, and a speaker pro tempore appointed.* 2 *Grey*, 186. 5 *Grey*, 134.

SEC. X.—ADDRESS.

[The president shall, from time to time, give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. *Const.* II. 3.]

A joint address of both houses of parliament is read by the speaker of the House of Lords.— It may be attended by both houses in a body, or by a committee from each house, or by the two speakers only. An address of the House of Commons only, may be presented by the whole house, or by the speaker, 9 *Grey*, 473. 1 *Chandler*, 298, 301; or by such particular members as are of the privy council. 2 *Hats.* 278.

SEC. XI.—COMMITTEES.

Standing Committees, as of privileges and elections, &c., are usually appointed at the first meeting, to continue through the session. The person first named is generally permitted to act as chair-

* **RULE 23.** The vice-president or president of the senate, pro tempore, shall have the right to name a member to perform the duties of the chair; but such substitution shall not extend beyond an adjournment.

man. But this is a matter of courtesy; every committee having a right to elect their own chairman, who presides over them, puts questions, and reports their proceedings to the house. 4 *inst.* 12. *Scob.* 9. 1 *Grey*, 122.

At these committees the members are to stand, and not sit: though there is reason to conjecture it was formerly otherwise. *D'Essex* 630. *col.* 1. 4 *Parl. Hist.* 440. 2 *Hats.* 77.

Their proceedings are not to be published, they are of no force till confirmed by the house. *Rushw. part* 3, *vol.* 2, 74. 3 *Grey*, 401. *Scob.* 1. Nor can they receive a petition but through the house. 9 *Grey*, 412.

When a committee is charged with an inquiry, if a member prove to be involved, they cannot proceed against him, but must make a special report to the house: whereupon the member is brought in his place, or at the bar, or a special authority is given to the committee to inquire concerning him. 9 *Grey*, 523.

So soon as the house sits, and a committee notified of it, the chairman is in duty bound to attend instantly, and the members to attend the service of the house. 2 *Nals.* 319.

It appears that on joint committees of the lords and commons, each committee acted integrally in the following instances: 7 *Grey*, 261, 278, 283, 338. 1 *Chandler*, 357, 462. In the following instances it does not appear whether they did or not. 6 *Grey*, 129, 7 *Grey*, 213, 229, 321.*

* **RULE 33.** The following standing committees, to consist of five members each, shall be appointed at the common

SEC. XII.—COMMITTEE OF THE WHOLE.

The speech, messages, and other matters of great concernment, are usually referred to a committee of the whole house, 6 *Grey*, 311, where general principles are digested in the form of resolutions, which are debated and amended till they get into a shape which meets the approbation of a majority. These being reported and confirmed by the house, are then referred to one or more select committees, according as the subject divides itself into one or more bills. *Scob.* 36. 44. Propositions for any

ment of each session, with leave to report by bill or otherwise.

A Committee on Foreign Relations.

A Committee on Finance.

A Committee on Commerce.

A Committee on Manufactures.

A Committee on Agriculture.

A Committee on Military Affairs.

A Committee on the Militia.

A Committee on Naval Affairs.

A Committee on Public Lands.

A Committee on Private Land Claims.

A Committee on Indian Affairs.

A Committee of Claims.

A Committee on the Judiciary.

A Committee on the Post Office and Post Roads.

A Committee on Pensions.

A Committee on the District of Columbia.

A Committee of three members, whose duty it shall be to audit and control the contingent expenses of the Senate.

And a Committee, consisting of three members, whose duty it shall be to examine all bills, amendments, resolutions, or motions, before they go out of the possession of the Senate, and to make report that they are correctly engrossed; which report shall be entered on the journal.

charge on the people are especially to be first made in a committee of the whole. 3 *Hats*. 127. The sense of the whole is better taken in committee, because in all committees every one speaks as often as he pleases. *Scob*. 49. They generally acquiesce in the chairman named by the speaker ; but, as well as all other committees, have a right to elect one some member, by consent, putting the question. *Scob*. 36. 3 *Grey*, 301. The form of going from the house into committee, is for the speaker, on motion, to put the question that the house do now resolve itself into a committee of the whole to take under consideration such a matter, naming it. If determined in the affirmative, he leaves the chair and takes a seat elsewhere, as any other member, and the person appointed chairman seats himself at the clerk's table. *Scob*. 36. Their quorum the same as that of the house ; and if a defect happens, the chairman, on a motion and question rises, the speaker resumes the chair, and the chairman can make no other report than to inform the house of the cause of their dissolution. If a message is announced during a committee, the speaker takes the chair, and receives it, because the committee cannot. 2 *Hats*. 125, 126.

In a committee of the whole, the tellers on a division, differing as to numbers, great heats and confusion arose, and danger of a decision by the sword. The speaker took the chair, the mace was forcibly laid on the table ; whereupon, the members retiring to their places, the speaker told the house " he had taken the chair without an order to bring the house into order." Some exceptions against it ; but it was generally approved as the

Only expedient to suppress the disorder. And every member was required, standing up in his place, to engage that he would proceed no further in consequence of what had happened in the grand committee, which was done. 3 *Grey*, 128.

A committee of the whole being broken up in disorder, and the chair resumed by the speaker without an order, the house was adjourned. The next day the committee was considered as thereby dissolved, and the subject again before the house; and it was decided in the house, without returning into committee. 3 *Grey*, 130.

No previous question can be put in a committee; nor can this committee adjourn as others may; but if their business is unfinished, they rise, on a question, the house is resumed, and the chairman reports that the committee of the whole, have, according to order, had under their consideration such a matter, and have made progress therein; but not having had time to go through the same, have directed him to ask leave to sit again. Whereupon a question is put on their having leave, and on the time the house will again resolve itself into a committee. *Scob.* 38. But if they have gone through the matter referred to them, a member moves that the committee may rise, and the chairman reports their proceeding to the house; which being resolved, the chairman rises, the speaker resumes the chair, the chairman informs him that the committee have gone through the business referred to them, and that he is ready to make report when the house shall think proper to receive it. If the house have time to receive it, there is usually a cry of "now, now," whereupon he makes the

report: but if it be late, the cry is "to-morrow, to-morrow," or "on Monday, &c." or a motion is made to that effect, and a question put that it be received, to-morrow, &c. *Scob.* 38.

In other things the rules of proceeding are to be the same as in the house. *Scob.* 39.

SEC. XIII.—EXAMINATION OF WITNESSES.

Common fame is a good ground for the house to proceed by inquiry, and even to accusation. *Resolution house commons*, 1 *Car.* 1625. *Rush. L. Parl.* 115. 1 *Grey*, 16—22, 92. 8 *Grey*, 21, 23, 27, 45.

Witnesses are not to be produced but where the house has previously instituted an inquiry, 2 *Hats.* 102, nor then are orders for their attendance given blank. 3 *Grey*, 51.

When any person is examined before a committee, or at the bar of the house, any member wishing to ask the person a question, must address it to the speaker or chairman, who repeats the question to the person, or says to him, "you hear the question, answer it." But if the propriety of the question be objected to, the speaker directs the witness, counsel and parties, to withdraw; for no question can be moved or put, or debated while they are there. 2 *Hats.* 108. Sometimes the questions are previously settled in writing before the witness enters. *Ib.* 106, 107. 8 *Grey*, 64. The questions asked must be entered in the journals. 3 *Grey*, 81. But the testimony given in answer before the house is never written down; but before a committee it must be, for the information of the house who are not present to hear it. 7 *Grey*, 52, 334.

If either house have occasion for the presence of a person in custody of the other, they ask the other their leave that he may be brought up to them in custody. 3 *Hats.* 52.

A member, in his place, gives information to the house of what he knows of any matter under hearing at the bar. *Jour. of H. C. Jan.* 22, 1744-5.

Either house may request, but not command the attendance of a member of the other. They are to make the request by message to the other house, and to express clearly the purpose of attendance, that no improper subject of examination may be tendered to him. The house then gives leave to the member to attend, if he choose it: waiting first to know from the member himself whether he chooses to attend, till which they do not take the message into consideration. But when the peers are sitting as a court of criminal judicature, they may order attendance; unless where it be a case of impeachment by the commons. There it is to be a request. 3 *Hats.* 17. 9 *Grey*, 306, 406. 10 *Grey*, 133.

Counsel are to be heard only on private, not on public bills, and on such points of law only as the house shall direct. 10 *Grey*, 61.

SEC. XIV.—ARRANGEMENT OF BUSINESS.

The speaker is not precisely bound to any rules as to what bills or other matter shall be first taken up; but is left to his own discretion, unless the house on a question decide to take up a particular subject. *Hakew.* 136.

A settled order of business is, however, necessary for the government of the presiding person,

and to restrain individual members from calling up favourite measures, or matters under their special patronage, out of their just turn. It is useful also for directing the discretion of the house, when they are moved to take up a particular matter, to the prejudice of others having priority of right to their attention in the general order of business.

[In senate, the bills and other papers which are in possession of the house, and in a state to be acted on, are arranged every morning, and brought on in the following order.]

[1. Bills ready for a second reading are read, that they may be referred to committees, and so be put under way. But if, on their being read, no motion is made for commitment, they are then laid on the table in the general file, to be taken up in their just turn.]

[2. After twelve o'clock, bills ready for it are put on their passage.]

[3. Reports in possession of the house, which offer grounds for a bill, are to be taken up, that the bill may be ordered in.]

[4. Bills, or other matters before the house, and unfinished on the preceding day, whether taken up in turn, or on special order, are entitled to be resumed and passed on through their present stage.]

[These matters being despatched, for preparing and expediting business, the general file of bills and other papers is then taken up, and each article of it is brought on according to its seniority, reckoned by the date of its first introduction to the house. Reports on bills belong to the dates of their bills.]

[The arrangement of the business of the senate is now as follows:]

[1. Motions previously submitted.]

[2. Reports of committees previously made.]

[3. Bills from the house of representatives, and those introduced on leave, which have been read the first time, are read the second time; and, if not referred to a committee are considered in committee of the whole, and proceeded with as in other cases.]

[4. After twelve o'clock, engrossed bills of the senate, and bills of the house of representatives, on third reading, are put on their passage.]

[5. If the above are finished before one o'clock, the general file of bills, consisting of those reported from committees on the second reading, and those reported from committees after having been referred, are taken up in the order in which they were reported to the senate by the respective committees.]

[6. At one o'clock, if no business be pending, or if no motion be made to proceed to other business, the special orders are called, at the head of which stands the unfinished business of the preceding day.]

[In this way we do not waste our time in debating what shall be taken up; we do one thing at a time; follow up a subject while it is fresh, and till it is done with; clear the house of business gradatim as it is brought on, and prevent, to a certain degree, its immense accumulation towards the close of the session.]

[Arrangement, however, can only take hold of matters in possession of the house. New matter

may be moved at any time, when no question is before the house. Such are original motions, and reports on bills. Such are bills from the other house, which are received at all times, and receive their first reading as soon as the question then before the house is disposed of; and bills brought in on leave, which are read first whenever presented. So messages from the other house, respecting amendments to bills, are taken up as soon as the house is clear of a question, unless they require to be printed, for better consideration. Orders of the day may be called for, even when another question is before the house.]

SEC. XV.—ORDER.

[Each house may determine the rules of its proceedings; punish its members for disorderly behaviour; and, with the concurrence of two-thirds, expel a member. *Const.* I. 5.]

In parliament, "instances make order," per speaker Onslow. 2 *Hats.* 141. But what is done only by one parliament, cannot be called custom of parliament, by Prynne. 1 *Grey*, 52.

SEC. XVI.—ORDER RESPECTING PAPERS.

The clerk is to let no journals, records, accounts, or papers, be taken from the table, or out of his custody. 2 *Hats.* 193, 194.

Mr. Prynne having at a committee of the whole amended a mistake in a bill without order or knowledge of the committee, was reprimanded, 1 *Chand.* 77.

A bill being missing, the house resolved that a protestation should be made and subscribed by the members "before Almighty God, and this

honourable house, that neither myself nor any other to my knowledge, have taken away, or do at this present conceal a bill entitled," &c. 5 *Grey*, 202.

After a bill is engrossed, it is put into the speaker's hands, and he is not to let any one have it to look into. *Town. col.* 209.

SEC. XVII.—ORDER IN DEBATE.

When the speaker is seated in his chair, every member is to sit in his place. *Scob.* 6. *Grey.* 403.

When any member means to speak, he is to stand up in his place, uncovered, and to address himself, not to the house, or any particular member, but to the speaker, who calls him by his name, that the house may take notice who it is that speaks. *Scob.* 6. *D'Ewes*, 487. *Col.* 1. 2 *Hats.* 77. 4 *Grey*, 66. 8 *Grey*, 108. But members who are indisposed may be indulged to speak sitting. 2 *Hats.* 75, 77. 1 *Grey*, 195.

[In senate, every member, when he speaks, shall address the chair standing in his place, and when he has finished shall sit down. *Rule* 3.]

When a member stands up to speak, no question is to be put, but he is to be heard, unless the house overrule him. 4 *Grey*, 390. 5 *Grey*, 6, 143.

If two or more rise to speak nearly together, the speaker determines who was first up, and calls him by name, whereupon he proceeds, unless he voluntarily sits down and gives way to the other. But sometimes the house does not acquiesce in the speaker's decision, in which case the question is put, "which member was first up?" 2 *Hats.* 76, *Scob.* 7. *D'Ewes*, 434. *col.* 1, 2.

[In the senate of the United States, the president's decision is without appeal. Their rule is in these words: *when two members rise at the same time, the president shall name the person to speak: but in all cases the member who shall first rise and address the chair, shall speak first. Rule 5.*]

No man may speak more than once to the same bill on the same day; or even on another day, if the debate be adjourned. But if it be read more than once in the same day, he may speak once at every reading. *Co. 12, 115. Hakew. 148. Scob. 58. 2 Hats. 75.* Even a change of opinion does not give a right to be heard a second time. *Smyth Comw. L. 2, c. 3. Arcan. Parl. 17.*

[The corresponding rule of senate is in these words: no member shall speak more than twice, in any one debate, on the same day, without leave of the senate. *Rule 4.*]

But he may be permitted to speak again to clear a matter of fact. *3 Grey, 357, 416.* Or merely to explain himself, *2 Hats. 73,* in some material part of his speech, *Ib. 75,* or to the manner or words of the question, keeping himself to that only and not travelling into the merits of it; *Memorials in Hakew. 29;* or to the orders of the house, if they be transgressed, keeping within that line, and not falling into the matter itself. *Mem. Hakew. 30, 31.*

But if the speaker rises to speak, the member standing up ought to sit down, that he may be first heard. *Town. col. 205. Hale parl. 133. Mem. in Hakew. 30, 31.* Nevertheless, though the speaker may of right speak to matters of

, and be first heard, he is restrained from
ing on any other subject, except where the
have occasion for facts within his know-
; then he may, with their leave, state the
of fact. 3 *Grey*, 38.

one is to speak impertinently or beside the
ion, superfluously or tediously. *Scob.* 31,
Hats. 166, 168. *Hale parl.* 133.

person is to use indecent language against
proceedings of the house, no prior determina-
of which is to be reflected on by any mem-
unless he means to conclude with a motion
scind it. 2 *Hats.* 169, 170. *Rushw. p.* 3. v.
l. 42. But while a proposition under consi-
ion is still in fieri, though it has even been
ted by a committee, reflections on it are no
ctions on the house. 9 *Grey*, 508.

person, in speaking, is to mention a mem-
hen present, by his name; but to describe
by his seat in the house, or who spoke last,
the other side of the question, &c. *Mem.*
akew. 3 *Smyth Comw. L.* 2, c. 3, nor to di-
from the matter to fall upon the person;
. 81. *Hale parl.* 133. 2 *Hats.* 166, by
ting, reviling, nipping, or unmannerly words
st a particular member. *Smyth Comw. L.*

3. The consequences of a measure may be
bated in strong terms; but to arraign the
ves of those who propose to advocate it, is a
onality, and against order. *Qui digreditur a*
ria ad personam, Mr. Speaker ought to sup-
le. *Ord. Com.* 1604, *Apr.* 19.

When a member shall be called to order by
resident, or a senator, he shall sit down; and

every question of order shall be decided by president, without debate, subject to an appeal to the senate; and the president may call for the sense of the senate on any question of order. *Rule 6.*]

[No member shall speak to another or otherwise interrupt the business of the senate, or read printed paper while the journals or public papers are reading, or when any member is speaking in any debate. *Rule 2.*]

No one is to disturb another in his speech by hissing, coughing, spitting, 6 *Grey*, 332. *Scob. D'Ewes*, 332. *col.* 1. 640. *col.* 2, speaking or whispering to another, *Scob.* 6. *D'Ewes*, 487. 1, nor to stand up or interrupt him; *Town.* 205. *Mem. in Hakew.* 31, nor to pass between speaker and the speaking member, nor to go about the house, *Scob.* 6. or to walk up and down, nor to take books or papers from the table, or from there. 2 *Hats.* 171.

Nevertheless, if a member finds that it is against the inclination of the house to hear him, and by conversation or any other noise they endeavor to drown his voice, it is his most prudent way to submit to the pleasure of the house, and sit down; for it scarcely ever happens that they are guilty of this piece of ill manners without sufficient reason, or inattentive to a member who says anything worth their hearing. 2 *Hats.* 77, 78.

If repeated calls do not produce order, the speaker may call by his name any member continually persisting in irregularity, whereupon the house may require the member to withdraw. He is then to be heard in exculpation, and to

draw. Then the speaker states the offence committed; and the house considers the degree of punishment they will inflict. 2 *Hats.* 167, 7, 8, 172.

For instances of assaults and affrays in the House of Commons, and the proceedings thereon, see 1 *Pet. Misc.* 82. 3 *Grey*, 128. 4 *Grey*, 328. 5 *Grey*, 382. 6 *Grey*, 254. 10 *Grey*, 8. Whenever warm words, or an assault, have passed between members, the house, for the protection of their members, requires them to declare in their places not to prosecute any quarrel, 3 *Grey*, 128, 293. 5 *Grey*, 289; or orders them to attend the speaker, who is to accommodate their differences and report to the house; 3 *Grey*, 419, and they are put under restraint if they refuse, or until they do. 9 *Grey*, 234, 312.

Disorderly words are not to be noticed till the member has finished his speech. 5 *Grey*, 356. 6 *Grey*, 60. Then the person objecting to them, and desiring them to be taken down by the clerk at the table, must repeat them. The speaker then may direct the clerk to take them down in his minutes. But if he thinks them not disorderly, he delays the direction. If the call becomes pretty general, he orders the clerk to take them down, as stated by the objecting member. They are then part of his minutes, and when read to the offending member, he may deny they were his words, and the house must then decide by a question whether they are his words or not. Then the member may justify them, or explain the sense in which he used them, or apologise. If the house is satisfied, no farther proceeding is necessary. But if two mem-

bers still insist to take the sense of the house, the member must withdraw, before that question is stated, and then the sense of the house is taken. 2 *Hats.* 199. 4 *Grey*, 170. 6 *Grey*. When any member has spoken, or other business intervened, after offensive words spoken, they must not be taken notice of for censure. And for the common security of all, and to prevent mistakes which must happen if words are not taken down immediately. Formerly they might be taken down at any time the same day. 2 *Hats. Mem. in Hakew.* 71. 3 *Grey*, 48. 9 *Grey*.

Disorderly words spoken in a committee must be written down as in the house; but the committee can only report them to the house for censure. 6 *Grey*, 46.

[The rule of the senate says,—If the speaker be called to order by a senator, for words which are exceptionable words shall immediately be taken down in writing, that the president may be better enabled to judge of the matter. *Resol.*]

In parliament, to speak irreverently or seditionally against the king is against order. *Comm. L. 2. c. 3.* 2 *Hats.* 170.

It is a breach of order in debate to notice what has been said on the same subject in the other house, or the particular votes or majorities there: because the opinion of each house must be left to its own independency not to be influenced by the proceedings of the other; quoting them might beget reflections lead to misunderstanding between the two houses. 6 *Grey*, 22.

Neither house can exercise any author

a member or officer of the other, but should complain to the house of which he is, and leave the punishment to them. Where the complaint is of words disrespectfully spoken by a member of another house, it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of members. Therefore it is the duty of the house, and more particularly of the speaker, to interfere immediately, and not to permit expressions to go unnoticed, which may give a ground of complaint to the other house, and introduce proceedings and mutual accusations between the two houses, which can hardly be terminated without difficulty and disorder. 3 *Hats.* 51.

No member may be present when a bill or any business concerning himself is debating; nor is any member to speak to the merits of it till he withdraws. 2 *Hats.* 219. The rule is, that if a charge against a member arise out of a report of a committee, or examination of witnesses in the house, as the member knows from that to what points he is to direct his exculpation, he may be heard to those points, before any question is moved or stated against him. He is then to be heard, and withdraw before any question is moved. But if the question itself is the charge, as for breach of order, or matter arising in the debate; there the charge must be stated, that is, the question must be moved, himself heard, and then to withdraw. 2 *Hats.* 121, 122.

Where the private interests of a member are concerned in a bill or question, he is to withdraw.

And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principle of the social compact, which denies to any man to be a judge in his own cause, it is for the honour of the house that this rule, of immemorial observance, should be strictly adhered to. 2 *Hats.* 119, 121. 6 *Grey*, 368.

No member is to come into the house with his head covered, nor to remove from one place to another with his hat on, nor is to put on his hat in coming in, or removing, until he be set down in his place. *Scob.* 6.

A question of order may be adjourned to give time to look into precedents. 2 *Hats.* 118.

In parliament, all decisions of the speaker may be controlled by the house. 3 *Grey*, 319.

SEC. XVIII.—ORDERS OF THE HOUSE.

Of right, the door of the house ought not to be shut, but to be kept by porters, or sergeants-at-arms, assigned for that purpose. *Mod. ten. Parl.* 23.

[By the rules of the senate, on motion made and seconded to shut the doors of the senate, on the discussion of any business which may, in the opinion of a member, require secrecy, the president shall direct the gallery to be cleared, and during the discussion of such motion, the doors shall remain shut. *Rule 18.*]

[No motion shall be deemed in order to admit any person or persons whatever within the doors of the senate chamber, to present any petition,

memorial, or address, or to hear any such read.
Rule 19.]

The only case where a member has a right to insist on any thing, is where he calls for the execution of a subsisting order of the house. Here, there having been already a resolution, any person has a right to insist that the speaker, or any other whose duty it is, shall carry it into execution; and no debate or delay can be had on it. Thus any member has a right to have the house or gallery cleared of strangers, an order existing for that purpose; or to have the house told when there is not a quorum present. 2 *Hats.* 87, 129. How far an order of the house is binding, see *Hakew.* 392.

But where an order is made that any particular matter be taken up on a particular day, there a question is to be put when it is called for, whether the house will now proceed to that matter? Where orders of the day are on important or interesting matter, they ought not to be proceeded on till an hour at which the house is usually full, [*which in senate is at noon.*]

Orders of the day may be discharged at any time, and a new one made for a different day. 3 *Grey*, 48, 313.

When a session is drawing to a close, and the important bills are all brought in, the house, in order to prevent interruption by further unimportant bills, sometimes come to a resolution that no new bill be brought in, except it be sent from the other house. 3 *Grey*, 156.

All orders of the house determine with the session; and one taken under such an order may, af-

ter the session is ended, be discharged on a *habeas corpus*. *Raym.* 120. *Jacob's L. D. by Ruffhead. Parliament*, 1 *Lev.* 165, *Pritchard's case*.

[Where the constitution authorises each house to determine the rules of its proceedings, it must mean in those cases legislative, executive, or judiciary, submitted to them by the constitution, or in something relating to these, and necessary towards their execution. But orders and resolutions are sometimes entered in the journals, having no relation to these, such as acceptances of invitations to attend orations, to take part in processions, &c. These must be understood to be merely conventional among those who are willing to participate in the ceremony, and are therefore perhaps improperly placed among the records of the house.]

SEC. XIX.—PETITIONS.

A petition prays something. A remonstrance has no prayer. 1 *Grey*, 58.

Petitions must be subscribed by the petitioners. *Scob.* 87. *L. Parl. c.* 22. 9 *Grey*, 362, unless they are attending, 1 *Grey*, 401, or unable to sign, and averred by a member. 3 *Grey*, 418. But a petition not subscribed, but which the member presenting it affirmed to be all in the hand-writing of the petitioner, and his name written in the beginning, was on the question (March 14, 1800,) received by the senate. The averment of a member, or of somebody without doors, that they know the hand-writing of the petitioners, is necessary if it be questioned. 6 *Grey*, 36. It must be presented by a member—not by the petitioners, and must be opened by him, holding it in his hand. 10 *Grey*, 57.

[Before any petition or memorial addressed to the senate shall be received and read at the table, whether the same shall be introduced by the president or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer. *Rule 24.*]

Regularly a motion for receiving it must be made and seconded, and a question put whether it shall be received? But a cry from the house of "received," or even its silence, dispenses with the formality of this question. It is then to be read and disposed of.

SEC. XX.—MOTIONS.

When a motion has been made, it is not to be put to the question, or debated, until it is seconded. *Scob. 21.*

[The senate say, No motion shall be debated until the same shall be seconded. *Rule 9.*]

It is then, and not till then, in possession of the house, and cannot be withdrawn but by leave of the house. It is to be put into writing, if the house or speaker require it, and must be read to the house by the speaker as often as any member desires it for his information. 2 *Hats. 82.*

[The rule of the senate is, when a motion shall be made and seconded, it shall be reduced to writing, if desired by the president or any member, delivered in at the table, and read by the president before the same shall be debated. *Rule 10.*]

It might be asked whether a motion for adjournment, or for the orders of the day, can be made by one member while another is speaking? It cannot. When two members offer to speak, he who

rose first is to be heard, and it is a breach of order in another to interrupt him, unless by calling him to order if he departs from it. And the question of order being decided, he is still to be heard through. A call for adjournment, or for the order of the day, or for the question, by gentlemen from their seats, is not a motion. No motion can be made without rising and addressing the chair. Such calls are themselves breaches of order, which, though the member who has risen may respect, as an expression of impatience of the house against further debate, yet, if he chooses, he has a right to go on.

SEC. XXI.—RESOLUTIONS.

When the house commands, it is by an "order." But fact, principles, and their own opinions and purposes, are expressed in the form of resolutions.

[A resolution, for an allowance of money to the clerks, being moved, it was objected to as not in order, and so ruled by the chair. But on an appeal to the senate (i. e. a call for their sense by the president on account of doubt in his mind according to Rule 16,) the decision was overruled. *Jour. Sen. June 1, 1796.* I presume the doubt was whether an allowance of money could be made otherwise than by bill.]

SEC. XXII.—BILLS.

[Every bill shall receive three readings, previous to its being passed; and the president shall give notice at each whether it be 1st, 2d, or 3d; which readings shall be on three different days, *unless* the senate unanimously direct otherwise. *Rule 26.*]

SEC. XXIII.—BILLS, LEAVE TO BRING IN.

[One day's notice, at least, shall be given of an intended motion for leave to bring in a bill. *Rule 25.*]

When a member desires to bring in a bill on any subject, he states to the house in general terms the causes for doing it, and concludes by moving for leave to bring in a bill entitled, &c. Leave being given, on the question, a committee is appointed to prepare and bring in the bill. The mover and seconder are always appointed of this committee, and one or more in addition. *Hakew. 132. Scob. 40.*

It is to be presented fairly written, without any erasure or interlineation, or the speaker may refuse it. *Scob. 41. 1 Grey, 82, 84.*

SEC. XXIV.—BILLS, FIRST READING.

When a bill is first presented, the clerk reads it at the table, and hands it to the speaker, who, rising, states to the house the title of the bill, that this is the first time of reading it, and the question will be whether it shall be read a second time? Then sitting down to give an opening for objections, if none be made, he rises again and puts the question whether it shall be read a second time? *Hakew. 137, 141.* A bill cannot be amended on the first reading; *6 Grey, 286*; nor is it usual for it to be opposed then: but it may be done, and rejected. *D'Ewes, 335, col. 1. 3 Hats. 198.*

SEC. XXV.—BILLS, SECOND READING.

The second reading must regularly be on another day. *Hakew. 143.* It is done by the clerk

at the table, who then hands it to the speaker. The speaker, rising, states to the house the title of the bill, that this is the second time of reading it, and that the question will be, whether it shall be committed, or engrossed and read a third time. But if the bill came from the other house, as always comes engrossed, he states, that the question will be, whether it shall be read a third time and before he has so reported the state of the bill no one is to speak to it. *Hakew. 143, 146.*

[In the senate of the United States, the president reports the title of the bill, that this is the second time of reading it, that it is now to be considered as in a committee of the whole, and the question will be, whether it shall be read a third time, or that it may be referred to a special committee?]

SEC. XXVI.—BILLS, COMMITMENT.

If on motion and question it be decided that the bill shall be committed, it may then be moved to be referred to a committee of the whole house or to a special committee. If the latter, the speaker proceeds to name the committee. Any member also may name a single person, and the clerk is to write him down as of the committee. If the house have a controlling power over the names and number, if a question be moved against any one, and may in any case put in and put out whom they please.

Those who take exceptions to some particular in the bill, are to be of the committee. But none who speak directly against the body of the bill. For he that would totally destroy, will not amend.

t. *Hakew.* 146. *Town. col.* 208. *D'Ewes*, 634. *col.* 2. *Scob.* 47, or as it is said, 5 *Grey*, 145, the child is not to be put to a nurse that cares not for it. 6 *Grey*, 373: It is therefore a constant rule, "that no man is to be employed in any matter who has declared himself against it." And when any member who is against the bill hears himself named of its committee, he ought to ask to be excused. Thus, March 7, 1606, Mr. Hadley was, on the question being put, excused from being of a committee, declaring himself to be against the matter itself. *Scob.* 46.

[No bill shall be committed or amended until it shall have been twice read, after which it may be referred to a committee. *Rule 27.*]

[In the appointment of the standing committees, the senate will proceed, by ballot, severally to appoint the chairman of each committee, and then, by one ballot, the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee. All other committees shall be appointed by ballot, and a plurality of votes shall make a choice. When any subject or matter shall have been referred to a committee, any other subject or matter of a similar nature may, on motion, be referred to such committee. *Rule 34.*]

The clerk may deliver the bill to any member of the committee. *Town. col.* 138. But it is usual to deliver it to him who is first named.

In some cases the house has ordered a committee to withdraw immediately into the committee chamber, and act on, and bring back the bill, sitting the house. *Scob.* 48. A committee meets

when and where they please, if the house has ordered time and place for them. 6 *Grey*, But they can only act when together, and not by separate consultation and consent, nothing but the report of the committee but what has agreed to in committee actually assembled.

A majority of the committee constitutes a quorum for business. *Elsynge's method of passing bills*, 11.

Any member of the house may be present at any select committee, but cannot vote, and must give place to all of the committee, and sit with them. *Elsynge*, 12. *Scob.* 49.

The committee have full power over the bill or other paper committed to them, except that they cannot change the title or subject. 8 *Grey*,

The paper before a committee, whether it be a bill, or of the whole, may be a bill, resolutions, draft of an address, &c., and it may either originate with them, or be referred to them. In every case the whole paper is read first by the clerk, and then by the chairman by paragraphs, *Scob.* 49, pausing at the end of each paragraph, and putting questions for amending, if proposed. In the case of resolutions on distinct subjects, originating themselves, a question is put on each separately as amended, or unamended, and no final question on the whole, 3 *Hats.* 276; but if they refer to the same subject, a question is put on the whole. If it be a bill, draught of an address, or other paper originating with them, they proceed by paragraphs, putting questions for amending, either by insertion or striking out, if proposed: but no question on agreeing to the paragraphs separately. This is reserved to the close, when a ques-

Put on the whole, for agreeing to it as amended, or unamended. But if it be a paper referred to them, they proceed to put questions of amendment, if proposed, but no final question on the whole : because all parts of the paper having been adopted by the house, stand of course, unless altered, or struck out by vote. Even if they are opposed to the whole paper, and think it cannot be made good by amendments, they cannot reject it, but must report it back to the house without amendments, and there make their opposition.

The natural order in considering and amending any paper is, to begin at the beginning, and proceed through it by paragraphs, and this order is so strictly adhered to in parliament, that when a latter part has been amended, you cannot recur back and make any alteration in a former part. 2 *Hats.* 90. In numerous assemblies, this restraint is doubtless important. [But in the senate of the United States, though in the main we consider and amend the paragraphs in their natural order, yet recurrences are indulged : and they seem, on the whole, in that small body, to produce advantages outweighing their inconveniences.]

To this natural order of beginning at the beginning, there is a single exception found in parliamentary usage. When a bill is taken up in committee, or on its second reading, they postpone the preamble, till the other parts of the bill are gone through. The reason is, that on consideration of the body of the bill such alterations may therein be made as may also occasion the alteration of the preamble. *Scob.* 50. 7 *Grey*, 431.

On this head the following case occurred in the senate, March 6, 1800: A resolution, which had no preamble, having been already amended by the house so that a few words only of the original remained in it, a motion was made to prefix a preamble, which having an aspect very different from the resolution, the mover intimated that he should afterwards propose a correspondent amendment in the body of the resolution. It was objected that a preamble could not be taken up till the body of the resolution is done with. But the preamble was received: because we are in fact through the body of the resolution, we have amended that as far as amendments have been offered, and indeed till little of the original is left. It is the proper time, therefore, to consider a preamble: and whether the one offered be consistent with the resolution, is for the house to determine. The mover indeed has intimated that he shall offer a subsequent proposition for the body of the resolution; but the house is not in possession of it; it remains in his breast, and may be withheld. The rules of the house can only operate on what is before them. [The practice of the senate, too, allows recurrences backwards and forwards for the purposes of amendment, not permitting amendments in a subsequent, to preclude those in a prior part, or e converso.]

When the committee is through the whole, a member moves that the committee may rise, the chairman reports the paper to the house, with or without amendments, as the case may be. 2
Hats. 289, 292. *Scob.* 53. 2 *Hats.* 290. 8
Scob. 50.

When a vote is once passed in a committee, it cannot be altered but by the house, their votes being binding on themselves. 1607, *June* 4.

The committee may not erase, interline, or blot the bill itself; but must, in a paper by itself, set down the amendments, stating the words which are to be inserted or omitted, *Scob.* 50, and where, by references to the page, line and word of the bill. *Scob.* 50.

SEC. XXVII.—REPORT OF COMMITTEE.

The chairman of the committee, standing in his place, informs the house that the committee, to whom was referred such a bill, have, according to order, had the same under consideration, and have directed him to report the same without any amendment, or with sundry amendments, (as the case may be,) which he is ready to do when the house pleases to receive it. And he, or any other, may move that it be now received. But the cry of “now, now,” from the house, generally dispenses with the formality of a motion and question. He then reads the amendments, with the coherence in the bill, and opens the alterations, and the reasons of the committee for such amendments, until he has gone through the whole. He then delivers it at the clerk’s table, where the amendments reported are read by the clerk, without the coherence, whereupon the papers lie upon the table till the house at its convenience shall take up the report. *Scob.* 52. *Hakew.* 148.

The report being made, the committee is dissolved, and can act no more without a new power. *Scob.* 51. But it may be revived by a vote, and

the same matter re-committed to them. 4 *Gr* 361.

SEC. XXVIII.—BILL, RECOMMITMENT.

After a bill has been committed and report it ought not, in an ordinary course, to be re-committed. But in cases of importance, and, for special reasons, it is sometimes re-committed; usually to the same committee. *Hakew.* 151. A report be re-committed before agreed to in house, what has passed in committee is of no validity; the whole question is again before the committee, and a new resolution must be again moved as if nothing had passed. 3 *Hats.* 131, *note.*

In senate, January, 1800, the salvage bill re-committed three times after the commitment.

A particular clause of a bill may be committed without the whole bill, 3 *Hats.* 131, or so much of a paper to one, and so much to another committee.

SEC. XXIX.—BILL, REPORT TAKEN UP.

When the report of a paper originating with committee is taken up by the house, they proceed exactly as in committee. Here, as in committee when the paragraphs have, on distinct questions, been agreed to seriatim, 5 *Grey*, 366. 6 *G* 368. 8 *Grey*, 47, 104, 360. 1 *Torbuck's* 125. 3 *Hats.* 348, no question needs be put the whole report. 5 *Grey*, 381.

On taking up a bill reported with amendments the amendments only are read by the clerk. The speaker then reads the first and puts it to question, and so on till the whole are adopted or rejected, before any other amendment be ad-

ted, except it be an amendment to an amendment. *Elsynge's Mem.* 53. When through the amendments of the committee, the speaker pauses, and gives time for amendments to be proposed in the house to the body of the bill: as he does also if it has been reported without amendments; putting no questions but on amendments proposed: and when through the whole, he puts the question whether the bill shall be read a third time?

SEC. XXX.—QUASI-COMMITTEE.

If on motion and question, the bill be not committed, or if no proposition for commitment be made, then the proceedings in the senate of the United States, and in parliament, are totally different. The former shall be first stated.

[The 28th rule of the senate says, "All bills, on a second reading, shall first be considered by the senate in the same manner as if the senate were in committee of the whole, before they shall be taken up and proceeded on by the senate, agreeably to the standing rules, unless otherwise ordered:" (that is to say, unless ordered to be referred to a special committee.) And when the senate shall consider a treaty, bill, or resolution, as in committee of the whole, the vice-president, or president pro tempore, may call a member to fill the chair, during the time the senate shall remain in committee of the whole; and the chairman so called, shall, during such time, have the powers of a president, pro tempore.]

[The proceeding of the senate, as in a committee of the whole, or in quasi-committee, is precisely as in a real committee of the whole, taking

no questions but on amendments. When through the whole, they consider the quasi-committee as risen, the house resumed, without any motion, question, or resolution to that effect, and the president reports that, "the house, acting as in a committee of the whole, have had under their consideration the bill entitled, &c., and have made sundry amendments which he will now report to the house." The bill is then before them, as it would have been if reported from a committee, and questions are regularly to be put again on every amendment; which being gone through, the president pauses to give time to the house to propose amendments to the body of the bill; and when through, puts the question whether it shall be read a third time.]

[After progress in amending a bill in quasi-committee, a motion may be made to refer it to a special committee. If the motion prevails, it is equivalent in effect to the several votes that the committee rise, the house resume itself, discharge the committee of the whole, and refer the bill to a special committee. In that case the amendments already made fall. But if the motion fails, the quasi-committee stands in statu quo.]

[How far does this 28th rule subject the house when in quasi-committee, to the laws which regulate the proceedings of committees of the whole?] The particulars in which these differ from proceedings in the house, are the following: 1. In a committee every member may speak as often as he pleases. 2. The votes of a committee may be rejected or altered when reported to the house. 3. A committee, even of the whole, cannot refer any

matter to another committee. 4. In a committee no previous question can be taken. The only means to avoid an improper discussion, is to move that the committee rise : and if it be apprehended that the same discussion will be attempted on returning into committee, the house can discharge them, and proceed itself on the business, keeping down the improper discussion by the previous question. 5. A committee cannot punish a breach of order in the house, or in the gallery. 9 *Grey*, 113. It can only rise and report it to the house, who may proceed to punish. [The 1st and 2d of these peculiarities attach to the quasi-committee of the senate, as every day's practice proves, and seem to be the only ones to which the 28th rule meant to subject them. For it continues to be a house, and therefore, though it acts in some respects as a committee, in others it preserves its character as a house. Thus, 3, it is in the daily habit of referring its business to a special committee. 4. It admits of the previous question. If it did not, it would have no means of preventing an improper discussion ; not being able as a committee is, to avoid it by returning into the house : for the moment it would resume the same subject there, the 28th rule declares it again a quasi-committee. 5. It would doubtless exercise its powers as a house on any breach of order. 6. It takes a question by yea and nay, as the house does. 7. It receives messages from the president and the other house. 8. In the midst of a debate it receives a motion to adjourn, and adjourns as a house, not as a committee.]

SEC. XXXI.—BILL, SECOND READING IN THE HOUSE.

In parliament, after the bill has been read a second time, if on the motion and question, it be not committed, or if no proposition for commitment be made, the speaker reads it by paragraphs, pausing between each, but putting no question but on amendments proposed; and when through the whole, he puts the question whether it shall be read a third time? if it came from the other house: or, if originating with themselves, whether it shall be engrossed and read a third time? The speaker reads sitting, but rises to put questions. The clerk stands while he reads.

* [But the senate of the United States is so much in the habit of making many and material amendments at the third reading, that it has become the practice not to engross a bill till it has passed. An irregular and dangerous practice; because, in

* The former practice of the senate, referred to in this paragraph, has been changed by the following rule:

[The final question, upon the second reading of every bill, resolution, constitutional amendment, or motion, originating in the senate, and requiring three readings previous to being passed, shall be, "Whether it shall be engrossed and read a third time?" and no amendment shall be received for discussion at the third reading of any bill, resolution, amendment, or motion, unless by unanimous consent of the members present; but it shall at all times be in order, before the final passage of any such bill, resolution, constitutional amendment, or motion, to move its commitment; and should such commitment take place, and any amendment be reported by the committee, the said bill, resolution, constitutional amendment, or motion, shall be again read a second time, and considered as in committee of the whole, and then the aforesaid question shall be again put. *Rule 29.*]

his way, the paper which passes the senate is not that which goes to the other house ; and that which goes to the other house as the act of the senate, as never been seen in senate. In reducing numerous, difficult, and illegible amendments into the text, the secretary may, with the most innocent intentions, commit errors, which can never again be corrected.]

The bill being now as perfect as its friends can make it, this is the proper stage for those fundamentally opposed to make their first attack. All attempts at earlier periods are with disjointed efforts ; because, many who do not expect to be in favour of the bill ultimately, are willing to let it go on to its perfect state, to take time to examine it themselves, and to hear what can be said for it ; knowing that, after all, they will have sufficient opportunities of giving in their veto. Its two last stages, therefore, are reserved for this, that is to say, on the question whether it shall be engrossed and read a third time ? And lastly, whether it shall pass ? The first of these is usually the most interesting contest ; because, then the whole subject is new and engaging, and the minds of the members having not yet been declared by any trying vote, the issue is the more doubtful. In this stage, therefore, is the main trial of strength, between its friends and opponents : and it behoves every one to make up his mind decisively for this question, or he loses the main battle ; and accident and management may, and often do, prevent a successful rallying on the next and last question, whether it shall pass ?

When the bill is engrossed, the title is to be

endorsed on the back, and not within the bill.
Haker. 250.

SEC. XXXII.—READING PAPERS.

Where papers are laid before the house, or referred to a committee, every member has a right to have them once read at the table, before he can be compelled to vote on them. But it is a great, though common error, to suppose that he has a right, toties quoties, to have acts, journals, accounts or papers on the table, read independently of the will of the house. The delay and interruption which this might be made to produce, evince the impossibility of the existence of such a right. There is, indeed, so manifest a propriety of permitting every member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is really for information, and not for delay, the speaker directs it to be read, without putting a question, if no one objects. But if objected to, a question must be put. 2 *Hats. 117, 118.*

It is equally an error to suppose that any member has a right, without a question put, to lay a book or paper on the table, or have it read, or suggesting that it contains matter infringing on the privileges of the house. *Ib.*

For the same reason a member has not a right to read a paper in his place, if it be objected to without leave of the house. But this rigour is never exercised but where there is an intention or gross abuse of the time and patience of the house.

A member has not a right even to read his own speech, committed to writing, without leave. This also is to prevent an abuse of time; and therefore is not refused, but where that is intended. 2 *Grey*, 227.

A report of a committee of the senate on a bill from the house of representatives being under consideration, on motion that the report of the committee on the house of representatives on the same bill be read in senate, it passed in the negative; *Feb.* 28, 1793.

Formerly when papers were referred to a committee, they used to be first read: but of late, only the titles: unless a member insists they shall be read, and then nobody can oppose it. 2 *Hats.* 117.

SEC. XXXIII.—PRIVILEGED QUESTIONS.

* [While a question is before the senate, no motion shall be received, unless for an amendment, for the previous question, or for postponing the main question, or to commit it, or to adjourn. *Rule 8.*]

It is no possession of a bill unless it be delivered to the clerk to be read, or the speaker reads

* This rule has been modified so as to specify the questions entitled to preference.

The rule is now as follows:

[When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend; which several motions shall have precedence in the order they stand arranged, and the motion for adjournment shall always be in order, and be decided without debate.]

the title. *Lex. Parl.* 274. *Elsyng, Mem.* 85. *Ord. House of Commons*, 64.

It is a general rule that the question first moved and seconded shall be first put. *Scob.* 28, 22. 2 *Hats.* 81. But this rule gives way to what may be called privileged questions; and the privileged questions are of different grades among themselves.

A motion to adjourn simply takes place of all others; for otherwise the house might be kept sitting against its will, and indefinitely. Yet this motion cannot be received after another question is actually put, and while the house is engaged in voting.

Orders of the day take place of all other questions, except adjournment. That is to say, the question which is the subject of an order is made a privileged one, *pro hac vice*. The order is a repeal of the general rule as to this special case. When any member moves therefore for the order of the day to be read, no further debate is permitted on the question which was before the house for if the debate might proceed, it might continue through the day and defeat the order. This motion, to entitle it to precedence, must be for the orders generally, and not for any particular one and if it be carried on the question, "Whether the house will now proceed to the orders of the day, they must be read and proceeded on in the course in which they stand; 2 *Hats.* 83; for priority of order gives priority of right, which cannot be taken away but by another special order.

After these there are other privileged questions which will require considerable explanation.

It is proper that every parliamentary assembly should have certain forms of question so adapted as to enable them fitly to dispose of every proposition which can be made to them. Such are, 1. The previous question. 2. To postpone indefinitely. 3. To adjourn a question to a definite day. 4. To lie on the table. 5. To commit. 6. To amend. The proper occasion for each of these questions should be understood.

1. When a proposition is moved, which it is useless or inexpedient now to express or discuss, the previous question has been introduced for suppressing for that time the motion and its discussion. 3 *Hats.* 186, 189.

2. But as the previous question gets rid of it only for that day, and the same proposition may recur the next day; if they wish to suppress it for the whole of that session, they postpone it indefinitely. 3 *Hats.* 183. This quashes the proposition for that session, as an indefinite adjournment is a dissolution, or the continuance of a suit, sine die, is a discontinuance of it.

3. When a motion is made which it will be proper to act on, but information is wanted, or something more pressing claims the present time, the question or debate is adjourned to such day within the session as will answer the views of the house. 2 *Hats.* 81. And those who have spoken before may not speak again when the adjourned debate is resumed. 2 *Hats.* 73. Sometimes, however, this has been abusively used by adjourning it to a day beyond the session, to get rid of it altogether, as would be done by an indefinite postponement.

4. When the house has something else which

claims its present attention, but would be willing to reserve in their power to take up a proposition whenever it shall suit them, they order it to lie on their table. It may then be called for at any time.

5. If the proposition will want more amendment and digestion than the formalities of the house will conveniently admit, they refer it to committee.

6. But if the proposition be well digested, and may need but few and simple amendments, and especially if these be of leading consequence, they then proceed to consider and amend it themselves.

The senate, in their practice, vary from the regular gradation of forms. Their practice, comparatively with that of parliament, stands thus

For the Parliamentary

Postponement indefinite,

Adjournment,

Lying on the table,

The Senate uses

Postponement to a day beyond the session

Postponement to a day within the session.

{ Postponement indefinite
{ Lying on the table.

In their 8th rule, therefore, which declares that while a question is before the senate, no motion shall be received, unless it be for the *Pr. Quo.* to postpone, commit, or amend the main question, the term postponement must be understood according to their broad use of it, and not in the parliamentary sense. Their rule then establishes as privileged questions, the previous question, postponement, commitment, and amendment.

But it may be asked, have these questions privilege among themselves? Or are they so equal that the common principle of the "first mo-

first put," takes place among them? This will need explanation. Their competitions may be as follow:

- | | | |
|-----------------------------------|---|---|
| 1. Previous Question and Postpone | } | In the 1st, 2d, and 3d classes, and the first member of the 4th class, the rule "first moved first put," takes place. |
| Commit | | |
| Amend | | |
| 2. Postpone and Previous Question | } | |
| Commit | | |
| Amend | | |
| 3. Commit and Previous Question | } | |
| Postpone | | |
| Amend | | |
| 4. Amend and Previous Question | } | |
| Postpone | | |
| Commit | | |

In the first class, where the *P. Q.* is first moved, the effect is peculiar. For it not only prevents the after motion to postpone or commit from being put to question before it, but also from being put after it. For, if the *P. Q.* be decided affirmatively, to wit, that the *M. Q.* shall *now* be put, it would of course be against the decision to postpone or commit. And if it be decided negatively, to wit, that the *M. Q.* shall not now be put, this puts the house out of possession of the *M. Q.* and consequently there is nothing before them to postpone or commit. So that neither voting for or against the *P. Q.* will enable the advocates for postponing or committing to get at their object.—Whether it may be amended shall be examined hereafter.

2d class. If postponement be decided affirmatively, the proposition is removed from before the house, and consequently there is no ground for the *Pr. Qu.* commitment, or amendment. But,

if decided negatively, that it shall not be postponed, the *M. Q.* may then be suppressed by the *P. Q.*, or may be committed, or amended.

The 3d class is subject to the same observations as the 2d.

The 4th class. Amendment of the *M. Q.* first moved, and afterwards the *P. Q.*, the question of amendment shall be first put.

Amendment and postponement competing, postponement is first put, as the equivalent proposition to adjourn the *M. Q.* would be in parliament. The reason is that the question for amendment is not suppressed by postponing or adjourning the *M. Q.* but remains before the house whenever the *M. Q.* is resumed: and it might be that the occasion for other urgent business might go by, and be lost by length of debate on the amendment, if the house had it not in their power to postpone the whole subject.

Amendment and commitment. The question for committing, though last moved, shall be first put: because in truth it facilitates and befriends the motion to amend. *Scobell* is express. "On motion to amend a bill, any one may notwithstanding move to commit it, and the question for commitment shall be first put." *Scob.* 46.

We have hitherto considered the case of two or more of the privileged questions contending for privilege between themselves, when both were moved on the original or *M. Q.*, but now let us suppose one of them to be moved, not on the original primary question, but on the secondary one, *e. g.*

Suppose a motion to postpone, commit or amend

the *M. Q.*, and that it be moved to suppress that motion by putting a previous question on it. This is not allowed: because it would embarrass questions too much to allow them to be piled on one another several stories high; and the same result may be had in a more simple way, by deciding against the postponement, commitment or amendment. 2 *Hats.* 81, 2, 3, 4.

Suppose a motion for the previous question, or commitment or amendment of the main question, and that it be then moved to postpone the motion for the previous question, or for commitment or amendment of the main question. 1. It would be absurd to postpone the previous question, commitment or amendment, alone, and thus separate the appendage from its principal. Yet it must be postponed separately from its original, if at all: because the 8th rule of senate says that when a main question is before the house no motion shall be received but to commit, amend or pre-question the original question, which is the parliamentary doctrine also. Therefore the motion to postpone the secondary motion for the previous question, or for committing or amending, cannot be received. 2. This is a piling of questions one on another, which, to avoid embarrassment, is not allowed. 3. The same result may be had more simply by voting against the previous question, commitment or amendment.

Suppose a commitment moved of a motion for the previous question, or to postpone or amend. The 1st, 2d and 3d reasons before stated all hold good against this.

Suppose an amendment moved to a motion for

the previous question. **Answer.** The previous question cannot be amended. Parliamentary usage, as well as the 9th rule of the senate, has fixed its form to be "shall the main question be now put?" i. e. at this instant. And as the present instant is but one, it can admit of no modification. To change it to to-morrow, or any other moment, is without example, and without utility. But suppose a motion to amend a motion for postponement, as to one day instead of another; or to a special, instead of an indefinite time. The useful character of amendment gives it a privilege of attaching itself to a secondary and privileged motion. That is, we may amend a postponement of a main question. So we may amend a commitment of a main question, as by adding, for example, "with instructions to inquire, &c." In like manner, if an amendment be moved to an amendment, it is admitted. But it would not be admitted in another degree; to wit, to amend an-amendment to an amendment, of a *M. Q.* This would lead to too much embarrassment. The line must be drawn somewhere, and usage has drawn it after the amendment to the amendment. The same result must be sought by deciding against the amendment to the amendment, and then moving it again as it was wished to be amended. In this form it becomes only an amendment to an amendment.

[When motions are made for reference of the same subject to a select committee, and to a standing committee, the question on reference to the standing committee shall be first put. *Rule 35.*]

[In filling a blank with a sum, the largest sum shall be first put to the question by the 13th rule

of the senate,*] contrary to the rule of parliament, which privileges the smallest sum and longest time. 5 *Grey*, 179. 2 *Hats*. 8, 83. 3 *Hats*. 132, 133. And this is considered to be not in the form of an amendment to the question, but as alternative or successive originals. In all cases of time or number, we must consider whether the larger comprehends the lesser, as in a question to what day a postponement shall be, the number of a committee, amount of a fine, term of an imprisonment, term of irredeemability of a loan, or the terminus in quiet, in any other case. Then the question must begin a maximo. Or whether the lesser includes the greater, as in questions on the limitation of the rate of interest, on what day the session shall be closed by adjournment, on what day the next shall commence, when an act shall commence, or the terminus a quo in any other case, where the question must begin a minimo. The object being not to begin at that extreme, which, and more, being within every man's wish, no one could negative it, and yet, if he should vote in the affirmative, every question for more would be precluded; but at that extreme which would unite few, and then to advance or recede till you get to a number which will unite a bare majority. 3 *Grey*, 376, 284, 385. "The fair question in this case is not that to which and more all will agree, but whether there shall be addition to the question." 1 *Grey*, 365.

Another exception to the rule of priority is when a motion has been made to strike out, or agree to

* In filling up blanks, the largest sum and longest time shall be first put. Rule 13.

a paragraph. Motions to amend it are to be put to the question before a vote is taken on striking out, or agreeing to the whole paragraph.

But there are several questions, which, being incidental to every one, will take place of every one, privileged or not; to wit, a question of order arising out of any other question, must be decided before that question. 2 *Hats.* 88.

A matter of privilege arising out of any question, or from a quarrel between two members, or any other cause, supersedes the consideration of the original question, and must be first disposed of. 2 *Hats.* 88.

Reading papers relative to the question before the house. This question must be put before the principal one. 2 *Hats.* 88.

Leave asked to withdraw a motion. The rule of parliament being that a motion made and seconded is in the possession of the house, and cannot be withdrawn without leave, the very terms of the rule imply that leave may be given, and consequently may be asked and put to the question,

SEC. XXXIV.—THE PREVIOUS QUESTION.

When any question is before the house, any member may move a previous question, "whether that question (called the main question) shall now be put?" If it pass in the affirmative, then the main question is to be put immediately, and no man may speak any thing further to it, either to add or alter. *Memor. in Hakew.* 28. 4 *Grey*, 27.

The previous question being moved and seconded, the question from the chair shall be, "Shall *the main question* be now put?" and if the nays

prevail, the main question shall not then be put.

This kind of question is understood by Mr. Hatsell to have been introduced in 1604. 2 *Hats.* 80. Sir Henry Vane introduced it. 2 *Grey*, 113, 114. 3 *Grey*, 384. When the question was put in this form, "Shall the main question be put?" A determination in the negative suppressed the main question during the session; but since the words "now put" are used, they exclude it for the present only. Formerly indeed only till the present debate was over, 4 *Grey*, 43, but now for that day and no longer. 2 *Grey*, 113, 114.

Before the question "Whether the main question shall now be put?" any person might formerly have spoken to the main question, because otherwise he would be precluded from speaking to it at all. *Mem. in Hakew.* 28.

The proper occasion for the previous question, is when a subject is brought forward of a delicate nature as to high personages, &c., or the discussion of which may call forth observations which might be of injurious consequences. Then the previous question is proposed: and, in the modern usage, the discussion of the main question is suspended, and the debate confined to the previous question. The use of it has been extended abusively to other cases: but in these it has been an embarrassing procedure: its uses would be as well answered by other more simple parliamentary forms, and therefore it should not be favoured, but restricted within as narrow limits as possible.

Whether a main question may be amended after the previous question on it has been moved and seconded? 2 *Hats.* 88, says, if the previous ques-

tion has been moved and seconded, and also proposed from the chair, (by which he means stated by the speaker for debate,) it has been doubted whether an amendment can be admitted to the main question. He thinks it may, after the previous question moved and seconded; but not after it has been proposed from the chair. In this case, he thinks the friends to the amendment must vote that the main question be not now put; and then move their amended question, which being made new by the amendment, is no longer the same which has been just suppressed, and therefore may be proposed as a new one. But this proceeding certainly endangers the main question, by dividing its friends, some of whom may choose it unamended, rather than lose it altogether: while others of them may vote, as Hatsell advises, that the main question be not now put, with a view to move it again in an amended form. The enemies of the main question, by this manœuvre to the previous question, get the enemies to the amendment added to them on the first vote, and throw the friends of the main question under the embarrassment of rallying again as they can. To support his opinion, too, he makes the deciding circumstance, whether an amendment may or may not be made, to be, that the previous question has been proposed from the chair. But, as the rule is that the house is in possession of a question as soon as it is moved and seconded, it cannot be more than possessed of it by its being also proposed from the chair. It may be said, indeed, that the object of the previous question being to get rid of a question, which *it is not expedient should be discussed*, this object

may be defeated by moving to amend, and, in the discussion of that motion, involving the subject of the main question. But so may the object of the previous question be defeated, by moving the pending question, as Mr. Hatsell proposes, after a decision against putting the original question. He acknowledges, too, that the practice has been to admit previous amendments, and only cites a few late instances to the contrary. On the whole, I should think it best to decide it as inconvenient to wit: which is most inconvenient, to put it in the power of one side of the house to defeat a proposition by hastily moving the previous question, and thus forcing the main question to be put and amended; or to put it in the power of the other side to force on, incidentally at least, a discussion which would be better avoided? Perhaps the last is the least inconvenience; inasmuch as the speaker, by confining the discussion rigorously to the amendment only, may prevent their going into the main question, and inasmuch also as so great a proportion of the cases in which the previous question is called for, are fair and proper subjects for public discussion, and ought not to be obstructed by a formality introduced for questions of a peculiar character.

SEC. XXXV—AMENDMENTS.

On an amendment being moved, a member who has spoken to the main question may speak again to the amendment. *Scob. 23.*

If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the house; but not within the competence of the speaker to suppress as if it were

against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will.

Amendments may be made so as totally to alter the nature of the proposition, and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves. 1 *Hats.* 79. 4, 82, 84. A new bill may be ingrafted by way of amendment on the words "Be it enacted, &c." 1 *Grey*, 190, 192.

If it be proposed to amend by leaving out certain words, it may be moved as an amendment to this amendment to leave out a part of the word of the amendment, which is equivalent to leaving them in the bill. 2 *Hats.* 80, 9. The parliamentary question is, always, whether the words shall stand part of the bill?

When it is proposed to amend by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can by amendments, before the question is put for inserting it. If it be received, it cannot be amended afterwards in the same stage; because the house has, on a vote, agreed to it in that form. In like manner if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments before the question is put for striking it out. If on the question it be retained, it cannot be amended afterwards: because a vote against striking out is equivalent to a vote agreeing to it in that form.

When it is moved to amend, by striking out

tain words, and inserting others, the manner of putting the question is first to read the whole passage to be amended as it stands at present, then the words proposed to be struck out, next those to be inserted, and lastly the whole passage as it will be then amended. And the question, if desired, is then to be divided, and put first on striking out. If carried, it is next on inserting the words proposed. If that be lost, it may be moved to insert others. *2 Hats. 80, 7.*

A motion is made to amend by striking out certain words and inserting others in their place, which is negatived. Then it is moved to strike out the same words, and to insert others of a tenor entirely different from those first proposed. It is again negatived. Then it is moved to strike out the same words and insert nothing, which is agreed to.

All this is admissible; because to strike out and insert A, is one proposition. To strike out and insert B, is a different proposition. And to strike out and insert nothing, is still different. And the rejection of one proposition does not preclude the offering a different one. Nor would it change the case were the first motion divided by putting the question first on striking out, and that negatived. For as putting the whole motion to the question at once would not have precluded, so putting the half of it cannot do it.*

* In the case of a division of the question and a decision against striking out, I advance doubtfully the opinion here expressed. I find no authority either way; and I know it may be viewed under a different aspect. It may be thought that, having decided separately not to strike out the passage, the same question for striking out cannot be put over again,

But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A, and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B. In which case those who preferred it would join in rejecting A.

After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out be so substantial as to make this effectively a different proposition. For then it is resolved into the common case of striking out a paragraph after amending it. Nor does any thing forbid a new insertion, instead of A and its coherence.

In senate, January 25, 1798, a motion to postpone until the second Tuesday in February some amendments proposed to the constitution; the words, "until the second Tuesday in February," were struck out by way of amendment. Then it was moved to add, "until the first day of June." Objected that it was not in order, as the question should be first put on the longest time; therefore, after a shorter time decided against, a longer cannot be put to question. It was answered that this rule takes place only in filling blanks for time. But when a specific time stands part of a motion, that may be struck out as well as any other part

though with a view to a different insertion. Still I think it more reasonable and convenient to consider the striking out, and insertion, as forming one proposition; but should readily yield to any evidence that the contrary is the practice in parliament.

of the motion ; and when struck out, a motion may be received to insert any other. In fact, it is not until they are struck out, and a blank for the time thereby produced, that the rule can begin to operate, by receiving all the propositions for different times, and putting the questions successively on the longest. Otherwise it would be in the power of the mover, by inserting originally a short time, to preclude the possibility of a longer. For till the short time is struck out, you cannot insert a longer ; and if, after it is struck out, you cannot do it, then it cannot be done at all. Suppose the first motion had been to amend by striking out " the second Tuesday in February," and inserting instead thereof " the first of June," it would have been regular, then, to divide the question, by proposing first the question to strike out, and then that to insert. Now this is precisely the effect of the present proceeding ; only instead of one motion and two questions, there are two motions and two questions, to effect it : the motion being divided as well as the question.

When the matter contained in two bills might be better put into one, the manner is to reject the one, and incorporate its matter into another bill by way of amendment. So if the matter of one bill would be better distributed into two, any part may be struck out by way of amendment, and put into a new bill. If a section is to be transposed, a question must be put on striking it out where it stands, and another for inserting it in the place desired.

A bill passed by the one house with blanks. These may be filled up by the other by way of

amendments, returned to the first, as such, and passed. 3 *Hats.* 83.

The number prefixed to the section of a bill, being merely a marginal indication, and no part of the text of the bill, the clerk regulates that—the house or committee is only to amend the text.

SEC. XXXVI.—DIVISION OF THE QUESTION.

If a question contains more parts than one, it may be divided into two or more questions. *Mem. in Hawk.* 29. But not as the right of an individual member, but with the consent of the house. For who is to decide whether a question is complicated or not? where it is complicated? into how many propositions it may be divided? The fact is, that the only mode of separating a complicated question is by moving amendments to it; and these must be decided by the house, on a question: unless the house orders it to be divided: as on the question, Dec. 2, 1640, making void the election of the knights for Worcester, on a motion it was resolved to make two questions of it, to wit, one on each knight. 2 *Hats.* 85, 86. So wherever there are several names in a question, they may be divided and put one by one. 9 *Grey*, 444. So 1729, April 17, on an objection that a question was complicated, it was separated by amendment. 2 *Hats.* 79.

The soundness of these observations will be evident from the embarrassments produced by the 12th rule of the senate, which says, “if the question in debate contain several points, any member may have the same divided.”

1798, May 30, the alien bill in quasi-committee.

To a section and proviso in the original, had been added two new provisos by way of amendment. On a motion to strike out the section as amended, the question was desired to be divided. To do this it must be put first on striking out either the former proviso, or some distinct member of the section. But when nothing remains but the last member of the section and the provisos, they cannot be divided so as to put the last member to question by itself; for the provisos might thus be left standing alone as exceptions to a rule when the rule is taken away; or the new provisos might be left to a second question, after having been decided on once before at the same reading; which is contrary to rule. But the question must be on striking out the last member of the section as amended. This sweeps away the exceptions with the rule, and relieves from inconsistency.— A question to be divisible, must comprehend points so distinct and entire, that one of them being taken away, the other may stand entire. But a proviso or exception, without an enacting clause, does not contain an entire point or proposition.

May 31. The same bill being before the senate. There was a proviso that the bill should not extend, 1. To any foreign minister; nor 2. To any person to whom the president should give a passport; nor 3. To any alien merchant conforming himself to such regulations as the president shall prescribe; and a division of the question into its simplest elements was called for. It was divided into 4 parts, the 4th taking in the words "conforming himself," &c. It was objected that the words "any alien merchant" could not be separated from their modi-

fyng words "conforming," &c., because these words, if left by themselves, contain no substantive idea, will make no sense. But admitting that the divisions of a paragraph into separate questions must be so made as that each part may stand by itself, yet the house having, on the question, retained the two first divisions, the words "any alien merchant" may be struck out, and their modifying words will then attach themselves to the preceding description of persons, and become a modification of that description.

When a question is divided, after the question on the 1st number, the 2d is open to debate and amendment: because it is a known rule that a person may rise and speak at any time before the question has been completely decided, by putting the negative as well as affirmative side. But the question is not completely put when the vote has been taken on the first member only. One half of the question, both affirmative and negative, remains still to be put. See *Execut. Journ. June 25, 1795*. The same decision by President Adams.

SEC. XXXVII.—CO-EXISTING QUESTION.

It may be asked whether the house can be in possession of two motions or propositions at the same time! So that, one of them being decided, the other goes to question without being moved anew! The answer must be special. When a question is interrupted by a vote of adjournment, it is thereby removed from before the house, and does not stand ipso facto before them at their next meeting: but must come forward in the usual way. So, when it is interrupted by the order of the day.

Such other privileged questions also as dispose of the main question (*e. g.* the previous question, postponement or commitment) remove it from before the house. But it is only suspended by a motion to amend, to withdraw, to read papers, or by a question of order or privilege, and stands again before the house when these are decided. None but the class of privileged questions can be brought forward while there is another question before the house, the rule being that when a motion has been made and seconded, no other can be received, except it be a privileged one.

SEC. XXXVIII.—EQUIVALENT QUESTIONS.

If, on a question for rejection, a bill be retained, it passes of course to its next reading. *Hakev.* 141. *Scob.* 42. And a question for a second reading, determined negatively, is a rejection without farther question. 4 *Grey*, 149. And see *Elsynge's Memor.* 42, in what cases questions are to be taken for rejection.

Where questions are perfectly equivalent, so that the negative of the one amounts to the affirmative of the other, and leaves no other alternative, the decision of the one concludes necessarily the other. 4 *Grey*, 157. Thus the negative of striking out amounts to the affirmative of agreeing; and therefore to put a question on agreeing after that on striking out, would be to put the same question in effect twice over. Not so in questions of amendments between the two houses. A motion to recede being negatived, does not amount to a positive vote to insist, because there is another alternative, to wit, to adhere.

A bill originating in one house, is passed by the other with an amendment. A motion in the originating house to agree to the amendment is negatived. Does there result from this a vote of disagreement, or must the question on disagreement be expressly voted? The questions respecting amendments from another house are, 1st to agree; 2d, disagree; 3d, recede; 4th, insist; 5th, adhere.

1. To agree. } Either of these concludes the other
2. To disagree. } necessarily, for the positive of either
is exactly the equivalent of the negative of the other, and no other alternative remains. On either motion amendments to the amendment may be proposed; *e. g.* if it be moved to disagree, those who are for the amendment have a right to propose amendments, and to make it as perfect as they can, before the question of disagreeing is put.

3. To recede. } You may then either insist or adhere.
4. To insist. } _____ recede or adhere.
5. To adhere. } _____ recede or insist.

Consequently the negative of these is not equivalent to a positive vote, the other way. It does not raise so necessary an implication as may authorise the secretary by inference to enter another vote; for two alternatives still remain, either of which may be adopted by the house.

SEC. XXXIX.—THE QUESTION.

The question is to be put first on the affirmative side, and then on the negative.

After the speaker has put the affirmative part of the question, any member who has not spoken be-

ore to the question, may rise and speak before the negative be put. Because it is no full question till the negative part be put. *Scob.* 23. 2 *Hats.* 73.

But in small matters, and which are of course, such as receiving petitions, reports, withdrawing motions, reading papers, &c. the speaker most commonly supposes the consent of the house where no objection is expressed, and does not give them the trouble of putting the question formally. *Scob.* 22. 2 *Hats.* 87. 2. 87. 5 *Grey*, 129. 1 *Grey*, 801.

SEC. XL.—BILLS, THIRD READING.

To prevent bills from being passed by surprise, the house by a standing order, directs that they shall not be put on their passage before a fixed hour, naming one at which the house is commonly full. *Hakew.* 153.

[The usage of the senate is not to put bills on their passage till noon.]

A bill reported and passed to the third reading cannot on that day be read the third time and passed. Because this would be to pass on two readings in the same day.

At the third reading the clerk reads the bill and delivers it to the speaker, who states the title, that it is the third time of reading the bill, and the question will be whether it shall pass? Formerly the speaker, or those who prepared a bill, prepared also a breviat or summary statement of its contents, which the speaker read when he declared the state of the bill, at the several readings. Sometimes, however, he read the bill itself,

especially on its passage. *Hakew.* 136, 137, 153. *Coke.* 22, 115. Latterly, instead of this, he, at the third reading, states the whole contents of the bill verbatim, only instead of reading the formal parts, "Be it enacted," &c. he states that "the preamble recites so and so—the 1st section enacts that, &c.; the 2d section enacts," &c.

[But in the senate of the United States, both of these formalities are dispensed with; the breviate presenting but an imperfect view of the bill, and being capable of being made to present a false one: and the full statement being a useless waste of time, immediately after a full reading by the clerk; and especially as every member has a printed copy in his hand.]

A bill on the third reading is not to be committed for the matter or body thereof; but to receive some particular clause or proviso, it hath been sometimes suffered, but as a thing very unusual, *Hakew.* 156; thus, 27 *El.* 1584, a bill was committed on the third reading, having been formerly committed on the 2d, but is declared not usual. *D'Ewes*, 337. *col.* 2, 414. *col.* 2.

When an essential provision has been omitted, rather than crase the bill, and render it suspicious, they add a clause on a separate paper, engrossed and called a rider, which is read and put to the question three times. *Elsynge's Memorials*, 59. 6 *Grey*, 335. 1 *Blackst.* 183. For examples of riders, see 3 *Hats.* 121, 122, 124, 126. Every one is at liberty to bring in a rider without asking leave. 10 *Grey*, 52.

It is laid down as a general rule, that amendments proposed at the second reading shall be

Once read, and those proposed at the third reading thrice read; as also all amendments from the other house. *Town. col.* 19, 23, 24, 25 26, 27, 28.

It is with great and almost invincible reluctance, that amendments are admitted at this reading, which occasion erasures or interlineations. Sometimes a proviso has been cut off from a bill; sometimes erased. 9 *Grey*, 513.

This is the proper stage for filling up blanks; or if filled up before, and now altered by erasure, it would be peculiarly unsafe.

At this reading the bill is debated afresh, and for the most part is more spoken to, at this time, than on any of the former readings. *Hakew.* 153.

The debate on the question whether it should be read a third time? has discovered to its friends and opponents the arguments on which each side relies, and which of these appear to have influence with the house; they have had time to meet them with new arguments, and to put their old ones into new shapes. The former vote has tried the strength of the first opinion, and furnished grounds to estimate the issue; and the question now offered for its passage, is the last occasion which is ever to be offered for carrying or rejecting it.

When the debate is ended, the speaker, holding the bill in his hand, puts the question for its passage, by saying, "gentlemen, all you who are of opinion that that this bill shall pass, say ay," and after the answer of the ayes, "all those of the contrary opinion say no."—*Hakew.* 154.

After the bill is passed, there can be no further alteration of it in any point. *Hakew.* 159.

SEC. III.—DIVISION OF THE HOUSE.

The affirmative and negative of the question having been both put and answered, the speaker declares whether the yeas or nays have it by the sound, if he be himself satisfied, and it stands as the judgment of the house. But if he be not himself satisfied which voice is the greater, or if before any other member comes into the house or before any new motion made, (for it is too late after that,) any member shall rise and declare himself dissatisfied with the speaker's decision, the speaker is to divide the house. *Scob.* 24. *Hats.* 140.

When the House of Commons is divided, the one party goes forth, and the other remains in the house. This has made it important which go forth and which remain; because the latter gather all the indolent, the indifferent, and inattentive. Their general rule, therefore, is, that those who give their vote for the preservation of the order of the house, shall stay in; and those who are for introducing any new matter or alteration, or proceeding contrary to the established course, are to go out. But this rule is subject to many exceptions and modifications. 2 *Hats.* 134. 1 *Russell* 3, fol. 92. *Scob.* 43, 52. *Co.* 12, 116. *D'Ewe* 505. col. 1. *Mem. in Hakew.* 25, 29, as will appear by the following statement of who go forth.

Petition that it be received,*	} Ayes.
Read,	
Lie on the table,	} Noes.
Rejected after refusal to lie on table,	

* Noes. 9 Grey 365.

Referred to a committee, or farther proceeding, ...	}	Ayes.
Bill , that it be brought in, ...		
Read first or second time, ...	}	Ayes.
Engrossed or read third time, ...		
Proceeding on every other stage, ...		
Committed, ...		
To committee of the whole, ...		Noes.
To a select committee, ...		Ayes.
Report of bill to lie on table, ...		Noes.
Be now read, ...	}	Ayes.
Be taken into consideration three months hence, ...		
Amendments be read a second time, ...		Noes.
Clause offered on report of bill be read second time, ...	}	Ayes.
For receiving a clause, ...		334
With amendments be engrossed, ...		395
That a bill be <i>now</i> read a third time, ...		Noes. 398
Receive a rider, ...	}	260
Pass, ...		
Be printed, ...		
Committees. That A take the chair, ...	}	Nocs. 291
To agree to the whole or any part of report, ...		
That the house do <i>now</i> resolve into committee, ...		
Speaker. That he now leave the chair, ...		
after order to go into committee, ...		
That he issue warrant for a new writ, ...	}	Ayes. 344
Member. That none be absent without leave, ...		
Witness. That he be further examined, ...		

Previous question,	- - -	No
Blanks. That they be filled with the largest sum,	- - -	Ay
Amendments. That words stand part of Lords. That their amendment be read a second time,	- - -	No
Messenger be received,	- - -	Ay
Orders of day to be now read, if be- fore 2 o'clock,	- - -	No
If after 2 o'clock,	- - -	No
Adjournment. Till the next sitting day, if before 4 o'clock,	- - -	Ay
If after 4 o'clock,	- - -	No
Over a sitting day, (unless a pre- vious resolution.	- - -	Ay
Over the 30th of January,	- - -	No
For sitting on Sunday, or any other day, not being a sitting day,	- - -	Ay

The one party being gone forth, the names two tellers from the affirmative, and from the negative side, who first count telling in the house, and report the number to the speaker. Then they place themselves within the door, two on each side, and count those who go forth, as they come in, and report the number to the speaker. *Mem. in Hakeū. 26.*

A mistake in the report of the tellers is rectified after the report made. 2 *Hats. 14.*

[But in both houses of congress all these customs are avoided. The ayes first rise and are counted, standing in their places, by the clerk or speaker. Then they sit, and the nays are counted in like manner.]

[In senate, if they be equally divided, the vice-president announces his opinion, which decides.]

[The constitution, however, has directed that "the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal." And again, that in all cases of reconsidering a bill, disapproved by the president, and returned with his objections, "the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the journals of each house respectively."]

[By the 16th and 17th rules of the senate, when the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reasons he be excused by the senate, declare, openly and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the house, the names of the members shall be taken alphabetically.]

[When the yeas and nays shall be taken upon any question, in pursuance of the above rule, no member shall be permitted, under any circumstances whatever, to vote after the decision is announced from the chair.]

[When it is proposed to take the vote by yeas and nays, the president or speaker states that "the question is whether, *e. g.* the bill shall pass? that it is proposed that the yeas and nays shall be entered on the journal. Those therefore, who desire it will rise." If he finds and declares that one-fifth have risen, he then states that "those who are of

opinion that the bill shall pass, are to answer in the affirmative; those of the contrary opinion in the negative." The clerk then calls over the names alphabetically, notes the yea or nay of each, and gives the list to the president or speaker, who declares the result. In senate, if there be an equal division, the secretary calls on the vice-president, and notes his affirmative or negative, which becomes the decision of the house.]

In the house of commons, every member must give his vote the one way or the other. *Scob.* 24. As it is not permitted to any one to withdraw who is in the house when the question is put, nor is any one to be told in the division who was not in when the question was put. 2 *Hats.* 140.

This last position is always true when the vote is by yeas and nays; where the negative as well as affirmative of the question is stated by the president at the same time, and the vote of both sides begins and proceeds *pari passu*. It is true also when the question is put in the usual way, if the negative has also been put. But if it has not, the member entering, or any other member, may speak, and even propose amendments, by which the debate may be opened again, and the question be greatly deferred. And as some who have answered ay, may have been changed by the new arguments, the affirmative must be put over again. If, then, the member entering may, by speaking a few words, occasion a repetition of the question it would be useless to deny it on his simple call for it.

While the house is telling, no member may speak, or move out of his place; for if any mis

e suspected, it must be told again. *Mem. kew.* 26. 2 *Hats.* 143.

ny difficulty arises in point of order during vision, the speaker is to decide perempto- subject to the future censure of the house if ar. He sometimes permits old experienced ers to assist him with their advice, which o, sitting in their seats, covered, to avoid pearance of debate; but this can only be he speaker's leave, else the division might veral hours. 2 *Hats.* 143.

voice of the majority decides. For the lex s partis is the law of all councils, elections, where not otherwise expressly provided. o. 93. But if the house be equally divided, er presumatur pro negante;" that is, the law is not to be changed but by a majority. n. col. 134.

t in the senate of the United States, the resident decides, when the house is divided.

U. S. I. 3.]

en, from counting the house, on a division, ears that there is not a quorum, the matter ues exactly in the state in which it was be- ie division, and must be resumed at that on any future day. 2 *Hats.* 126.

6, May 1, on a question whether a member ; said yea, may afterwards sit and change nion? a precedent was remembered by the r, of Mr. Morris, attorney of the wards in iz. who in like case changed his opinion. in *Hakew.* 27.

SEC. XLII.—TITLES.

After the bill has passed, and not before title may be amended, and is to be fixed question; and the bill is then sent to the house.

SEC. XLIII.—RECONSIDERATION.

[When a question has been once made, as in the affirmative or negative, it shall order for any member of the majority to move the reconsideration thereof, but no motion for reconsideration of any vote shall be in order on a bill, resolution, message, report, amendment, or motion upon which the vote was taken, having gone out of the possession of the senate, announcing their decision; nor shall any motion for reconsideration be in order, unless made on the day on which the vote was taken, or within two next days of actual session of the senate after.* *Rule 20.*]

[1798, Jan. A bill on its second reading amended, and on the question whether it should read a third time, negatived, was restored to decision to reconsider that question. He who votes of negative and reconsideration, like positive and negative quantities in equation, cancel one another, and are as if they were expunged from the journals. Consequently, the bill is for amendment, just so far as it was the motion preceding the question for the third reading; in to say, all parts of the bill are open for amendment, except those on which votes have been

* This part of the Rule has been added since the Manual was compiled.

Ready taken in its present stage. So, also, it may be recommitted.]

* [The rule permitting a reconsideration of a question, affixing to it no limitation of time or circumstance, it may be asked whether there is no limitation? If, after the vote, the paper on which it is passed has been parted with, there can be no reconsideration: as if a vote has been for the passage of a bill, and the bill has been sent to the other house. But where the paper remains, as on a bill rejected; when, or under what circumstances does it cease to be susceptible of reconsideration? This remains to be settled; unless a sense that the right of reconsideration is a right to waste the time of the house in repeated agitations of the same question, so that it shall never know when a question is done with, should induce them to reform this anomalous proceeding.]

In parliament, a question once carried, cannot be questioned again, at the same session; but must stand as the judgment of the house. *Towns. col.* 67. *Mem. in Hakew.* 33. And a bill once rejected, another of the same substance cannot be brought in again the same session. *Hakew.* 158. 6 *Grey*, 392. But this does not extend to prevent putting the same question in different stages of a bill; because every stage of a bill submits the whole and every part of it to the opinion of the house, as open for amendment, either by insertion or omission, though the same amendment has been accepted or rejected in a former stage. So in reports of committees, *e. g.* report of an address, the

* The Rule now fixes a limitation.

same question is before the house, and open for free discussion. *Towns. col.* 26. 2 *Hats.* 98, 100, 101. So orders of the house, or instructions to committees, may be discharged. So a bill, begun in one house, and sent to the other, and there rejected, may be renewed again in that other, passed and sent back. *Ib.* 92. 3 *Hats.* 161. Or if, instead of being rejected, they read it once and lay it aside, or amend it, and put it off a month, they may order in another to the same effect, with the same or a different title. *Hakew.* 97, 98.

Divers expedients are used to correct the effects of this rule ; as by passing an explanatory act, if any thing has been omitted or ill expressed, 3 *Hats.* 278, or an act to enforce, and make more effectual an act, &c. or to rectify mistakes in an act, &c. or a committee on one bill may be instructed to receive a clause to rectify the mistakes of another. Thus, June 24, 1685, a clause was inserted in a bill for rectifying a mistake committed by a clerk in engrossing a bill of supply. 2 *Hats.* 194, 6. Or the session may be closed for one, two, three, or more days, and a new one commenced. But then all matters depending must be finished, or they fall, and are to begin *de novo*. 2 *Hats.* 94, 98. Or a part of the subject may be taken up by another bill, or taken up in a different way. 6 *Grey*, 304, 316.

And in cases of the last magnitude, this rule has not been so strictly and verbally observed as to stop indispensable proceedings altogether. 2 *Hats.* 92, 98. Thus when the address on the preliminaries of peace in 1782 had been lost by a majority of one, on account of the importance of the ques-

ion, and smallness of the majority, the same question, in substance, though with some words not in the first, and which might change the opinion of some members, was brought on again and carried; as the motives for it were thought to outweigh the objection of form. 2 *Hats.* 99, 100.

A second bill may be passed to continue an act of the same session; or to enlarge the time limited for its execution. 2 *Hats.* 95, 98. This is not in contradiction to the first act.

SEC. XLIV.—BILLS SENT TO THE OTHER HOUSE.

[All bills passed in senate, shall, before they are sent to the house of representatives, be examined by a committee, consisting of three members, whose duty it shall be to examine all bills, amendments, resolutions, or motions, before they go out of the possession of the senate, and to make report that they are correctly engrossed; which report shall be entered on the journal. *Rule 33.*]

A bill from the other house is sometimes ordered to lie on the table. 2 *Hats.* 97.

When bills, passed in one house and sent to the other, are grounded on special facts requiring proof, it is usual, either by message, or at a conference, to ask the grounds and evidence; and this evidence, whether arising out of papers, or from the examination of witnesses, is immediately communicated. 8 *Hats.* 48.

SEC. XLV.—AMENDMENTS BETWEEN THE HOUSES,

When either house, *e. g.* the house of commons, send a bill to the other, the other may pass it with amendments. The regular progression in this case is, that the commons disagree to the amendment;

the lords insist on it; the commons insist on their disagreement; the lords adhere to their amendment; the commons adhere to their disagreement. The term of insisting may be repeated as often as they choose to keep the question open. But the first adherence by either renders it necessary for the other to recede or adhere also; when the matter is usually suffered to fall. 10 *Grey*, 148. Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the houses would become endless. 3 *Hats*. 268, 270. The term of insisting, we are told, by Sir John Trevor, was then (1679) newly introduced into parliamentary usage, by the lords. 7 *Grey*, 94. It was certainly a happy innovation, as it multiplies the opportunities of trying modifications which may bring the houses to a concurrence. Either house, however, is free to pass over the term of insisting, and to adhere in the first instance. 10 *Grey*, 146. But it is not respectful to the other. In the ordinary parliamentary course, there are two free conferences at least before an adherence. 10 *Grey*, 147.

Either house may recede from its amendment and agree to the bill; or recede from their disagreement to the amendment, and agree to the same absolutely, or with an amendment. For here the disagreement and receding destroy one another, and the subject stands as before the disagreement. *Elsynge*, 23, 27. 9 *Grey*, 476.

But the house cannot recede from, or insist on its own amendment, with an amendment: for the

~~same~~ reason that it cannot send to the other house an amendment to its own act after it has passed the act. They may modify an amendment from the other house by ingrafting an amendment on it, because they have never assented to it; but they cannot amend their own amendment, because they have, on the question, passed it in that form. 9 *Grey*, 263. 10 *Grey*, 240. In senate, March 29, 1798. Nor where one house has adhered to their amendment, and the other agrees with an amendment, can the first house depart from the form which they have fixed by an adherence.

In the case of a money bill, the lords' proposed amendments, become, by delay, confessedly necessary. The commons however refused them, as infringing on their privilege as to money bills; but they offered themselves to add to the bill a proviso to the same effect, which had no coherence with the lords' amendments; and urged that it was an expedient warranted by precedent, and not unparliamentary in a case become impracticable, and irremediable in any other way. 3 *Hats*. 256, 266, 270, 271. But the lords refused, and the bill was lost. 1 *Chand*. 288. A like case, 1 *Chand*. 311. So the commons resolve that it is unparliamentary to strike out at a conference any thing in a bill which hath been agreed and passed by both houses. 6 *Grey*, 274. 1 *Chand*. 312.

A motion to amend an amendment from the other house, takes precedence of a motion to agree or disagree.

A bill originating in one house is passed by the other with an amendment.

The originating house agrees to their amend-

ment with an amendment. The other may agree to their amendment with an amendment; that being only in the 2d and not the 3d degree. For, as to the amending house, the first amendment with which they passed the bill, is a part of its text; it is the only text they have agreed to. The amendment to that text by the originating house therefore, is only in the 1st degree, and the amendment to that again by the amending house is only in the 2d, to wit, an amendment to an amendment, and so admissible. Just so, when, on a bill from the originating house, the other, at its 2d reading, makes an amendment; on the 3d reading this amendment is become the text of the bill, and if an amendment to it be moved, an amendment to that amendment may also be moved as being only in the 2d degree.

SEC. XLVI.—CONFERENCES.

It is on the occasion of amendments between the houses that conferences are usually asked; but they may be asked in all cases of difference of opinion between the two houses on matters depending between them. The request of a conference, however, must always be by the house which is possessed of the papers. 3 *Hats.* 31 *Grey*, 425.

Conferences may be either simple or free. At a conference simply, written reasons are prepared by the house asking it, and they are read and delivered without debate to the managers of the other house at the conference; but are not there to be answered. 4 *Grey*, 144. The other house, then, if satisfied, vote the reasons satisfactory.

or say nothing : if not satisfied, they resolve them not satisfactory, and ask a conference on the subject of the last conference, where they read and deliver in like manner written answers to those reasons. 3 *Grey*, 183. They are meant chiefly to record the justification of each house to the nation at large, and to posterity, and in proof that the miscarriage of a necessary measure is not imputable to them. 3 *Grey*, 255. At free conferences, the managers discuss, viva voce and freely, and interchange propositions for such modifications as may be made in a parliamentary way, and may bring the sense of the two houses together. And each party reports in writing to their respective houses, the substance of what is said on both sides, and it is entered in their journals. 9 *Grey*, 220. 3 *Hats*. 280. This report cannot be amended or altered, as that of a committee may be. *Journ. Senate*, May 24, 1796.

A conference may be asked, before the house asking it has come to a resolution of disagreement, insisting or adhering. 3 *Hats*. 269, 341. In which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given. And this is the most reasonable and respectful proceeding. For, as was urged by the lords on a particular occasion, "it is held vain, and below the wisdom of parliament, to reason or argue against fixed resolutions, and upon terms of impossibility to persuade." 3 *Hats*. 226. So the commons say, "an adherence is never delivered at a free conference, which implies debate." 10 *Grey*, 137. And on another occasion the lords made it an objection that the

commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the commons that nothing was more parliamentary than to proceed with free conferences after adhering, 3 *Hats*. 269, and we do in fact see instances of conference or of free conference, asked after the resolution of disagreeing, 3 *Hats*. 251, 253, 260, 286, 293, 316, 349, of insisting, *ib.* 280, 296, 299, 313, 322, 355; of adhering, 269, 270, 283, 300, and even of a second or final adherence. 3 *Hats*. 27. And in all cases of conference asked after a vote of disagreement, &c. the conferees of the house asking it, are to leave the papers with the conferees of the other: and in one case where they refused to receive them, they were left on the table in the conference chamber, *ib.* 271, 317, 323, 351. 10 *Grey*, 146.

After a free conference, the usage is to proceed with free conferences, and not to return again to a conference. 3 *Hats*. 270. 9 *Grey*, 229.

After a conference denied a free conference may be asked. 1 *Grey*, 45.

When a conference is asked, the subject of it must be expressed, or the conference not agreed to; *Ord. H. Com.* 89. 1 *Grey*, 425. 7 *Grey*, 3. They are sometimes asked to inquire concerning an offence or default of a member of the other house. 6 *Grey*, 181. 1 *Chand.* 304. Or the failure of the other house to present to the king a bill passed by both houses, 8 *Grey*, 302. Or information received, and relating to the safety of the nation, 10 *Grey*, 171. Or when the methods of parliament are thought by the one house

have been departed from by the other, a conference is asked to come to a right understanding thereon. 10 *Grey*, 148. So when an unparliamentary message has been sent, instead of answering it, they ask a conference. 3 *Grey*, 155. Formerly an address or articles of impeachment, or a bill with amendments, or a vote of the house, or concurrence in a vote, or a message from the king, were sometimes communicated by way of conference. 6 *Grey*, 128, 300, 387. 7 *Grey*, 80. 8 *Grey*, 310, 255. 1 *Torbuck's Deb.* 278. 10 *Grey*, 293. 1 *Chandler*, 49, 287. But this is not the modern practice. 8 *Grey*, 255.

A conference has been asked after the first reading of a bill. 1 *Grey*, 194. This is a singular instance.

SEC. XLVII.—MESSAGES.

Messages between the houses are to be sent only while both houses are sitting. 3 *Hats.* 15. They are received during a debate without adjourning the debate. 3 *Hats.* 22.

[In senate the messengers are introduced in any state of business, except, 1. While a question is putting. 2. While the yeas and nays are calling. 3. While the ballots are counting. *Rule* 46. The first case is short: the second and third are cases where any interruption might occasion errors difficult to be corrected. So arranged June 15, 1798.]

In the house of representatives, as in parliament, if the house be in committee when a messenger attends, the speaker takes the chair to receive the message, and then quits it to return into

committee, without any question or interruption. 4 *Grey*, 226.

Messengers are not saluted by the members, but by the speaker for the house. 2 *Grey*, 253, 274.

If messengers commit an error in delivering their message, they may be admitted, or called in to correct their message. 4 *Grey*, 41. Accordingly, March 13, 1800, the senate having made two amendments to a bill from the house of representatives, their secretary, by mistake, delivered one only; which being inadmissible by itself, that house disagreed, and notified the senate of their disagreement. This produced a discovery of the mistake. The secretary was sent to the other house to correct his mistake, the correction was received, and the two amendments acted on *de novo*.

As soon as the messenger, who has brought bills from the other house, has retired, the speaker holds the bills in his hand, and acquaints the house "that the other house have by their messenger sent certain bills," and then reads their titles, and delivers them to the clerk, to be safely kept, till they shall be called for to be read. *Hakew.* 178.

It is not the usage for one house to inform the other by what numbers a bill has past. 10 *Grey* 150. Yet they have sometimes recommended a bill, as of great importance, to the consideration of the house to which it is sent. 3 *Hats.* 25. No when they have rejected a bill from the other house, do they give notice of it; but it passes *sub silentio*, to prevent unbecoming altercations. *Blackst.* 183.

[But in congress the rejection is notified by message to the house in which the bill originated.]

A question is never asked by the one house of the other by way of message, but only at a conference; for this is an interrogatory, not a message.

Grey, 151, 181.

When a bill is sent by one house to the other, and is neglected, they may send a message to remind them of it. 3 *Hats*. 25. 5 *Grey*, 154. But if it be mere inattention, it is better to have it done informally, by communications between the speakers, or members of the two houses.

Where the subject of a message is of a nature that it can properly be communicated to both houses of parliament, it is expected that this communication should be made to both on the same day. But where a message was accompanied with an original declaration, signed by the party to which the message referred, its being sent to one house was not noticed by the other, because the declaration, being original, could not possibly be sent to both houses at the same time. 2 *Hats*. 60, 261, 262.

The king, having sent original letters to the commons, afterwards desires they may be returned, that he may communicate them to the lords. 1 *Handler*, 303.

SEC. XLVIII.—ASSENT.

The house which has received a bill and passed it may present it for the king's assent, and ought to do it, though they have not by message notified the other their passage of it. Yet the notifying by message is a form which ought to be ob-

served between the two houses from motives of respect and good understanding. 2 *Hats.* 242. Were the bill to be withheld from being presented to the king, it would be an infringement of the rules of parliament. *Ib.*

[When a bill has passed both houses of congress, the house last acting on it, notifies its passage to the other, and delivers the bill to the joint committee of enrolment, who see that it is truly enrolled in parchment.] When the bill is enrolled, it is not to be written in paragraphs, but solidly, and all of a piece, that the blanks between the paragraphs may not give room for forgery. 9 *Grey*, 143. [It is then put into the hands of the clerk of the house of representatives to have it signed by the speaker. The clerk then brings it by way of message to the senate to be signed by their president. The secretary of the senate returns it to the committee of enrolment, who present it to the president of the United States. If he approve, he signs, and deposits it among the rolls in the office of the secretary of state, and notifies by message the house in which it originated that he has approved and signed it; of which that house informs the other by message. If the president disapproves, he is to return it, with his objections, to that house in which it shall have originated; who are to enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the president's objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it

shall become a law. If any bill shall not be returned by the president within ten days (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return; in which case it shall not be a law. *Const. U. S. I. 7.*]

[Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a case of adjournment,) shall be presented to the president of the United States, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill. *Const. U. S. I. 7.*]

SEC. XLIX.—JOURNALS.

[Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy, *Const. U. S. I. 5.*]

[The proceedings of the senate, when not acting as in a committee of the whole, shall be entered on the journals, as concisely as possible, care being taken to detail a true account of the proceedings. Every vote of the senate shall be entered on the journals, and a brief statement of the contents of each petition, memorial, or paper presented to the senate, be also inserted on the journal. *Rule 32.*]

[The titles of bills, and such parts thereof only

as shall be effected by proposed amendments, shall be inserted on the journals. *Rule 31.*]

If a question is interrupted by a vote to adjourn, or to proceed to the orders of the day, the original question is never printed in the journal, it never having been a vote, nor introductory to any vote: but when suppressed by the previous question, the first question must be stated, in order to introduce and make intelligible the second. 2 *Hats.* 83.

So also when a question is postponed, adjourned, or laid on the table, the original question, though not yet a vote, must be expressed in the journals; because it makes part of the vote of postponement, adjourning, or laying it on the table.

Where amendments are made to a question, those amendments are not printed in the journals, separated from the question; but only the question as finally agreed to by the house. The rule of entering in the journals only what the house has agreed to, is founded in great prudence and good sense; as there may be many questions proposed which it may be improper to publish to the world, in the form in which they are made. 2 *Hats.* 25.

[In both houses of congress, all questions whereon the yeas and nays are desired by one-fifth of the members present, whether decided affirmatively or negatively, must be entered in the journals. *Const.* I. 5.]

The first order for printing the votes of the house of commons, was October 30, 1685. 1 *Chandler*, 387.

Some judges have been of opinion that the jour-

nals of the house of commons are no records, but only remembrances. But this is not law. *Hob.* 110, 111. *Lex. Parl.* 114, 115. *Jour. H. C. Mar.* 17, 1592. *Hale. Parl.* 105. For the lords in their house have power of judicature, the commons in their house have power of judicature, and both houses together have power of judicature; and the book of the clerk of the house of commons is a record, as is affirmed by act of Parl. 6 *H.* 8, c. 16. 4 *Inst.* 23, 24, and every member of the house of commons hath a judicial place. 4 *Inst.* 15. As records they are open to every person, and a printed vote of either house is sufficient ground for the other to notice it. Either may appoint a committee to inspect the journals of the other, and report what has been done by the other in any particular case. 2 *Hats.* 261. 3 *Hats.* 27—30. Every member has a right to see the journals, and to take and publish votes from them. Being a record, every one may see and publish them. 6 *Grey*, 118, 119.

On information of a mis-entry or an omission of an entry in the journal, a committee may be appointed to examine and rectify it, and report it to the house. 2 *Hats.* 194, 5.

SEC. L.—ADJOURNMENT.

The two houses of parliament have the sole, separate, and independent power of adjourning each their respective houses. The king has no authority to adjourn them; he can only signify his desire, and it is in the wisdom and prudence of either house to comply with his requisition, or not as they see fitting. 2 *Hats.* 232. 1 *Blackstone*, 186. 5 *Grey*, 122.

[By the constitution of the United States a smaller number than a majority may adjourn from day to day. I. 5. But "neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting." I. 5. And in case of disagreement, between them, with respect to the time of adjournment, the president may adjourn them to such time as he shall think proper. *Const.* II. 3.]

A motion to adjourn, simply, cannot be amended as by adding "to a particular day." But must be put simply "that this house do now adjourn?" and if carried in the affirmative, it is adjourned to the next sitting day, unless it has come to a previous resolution, "that at its rising it will adjourn to a particular day," and then the house is adjourned to that day, 2 *Hats.* 82.

Where it is convenient that the business of the house be suspended for a short time, as for a conference presently to be held, &c., it adjourns during pleasure, 2 *Hats.* 305. Or for a quarter of an hour. 5 *Grey*, 331.

If a question be put for adjournment, it is no adjournment till the speaker pronounces it. 5 *Grey*, 137. And from courtesy and respect, no member leaves his place till the speaker has passed on.

SEC. LI.—A SESSION.

Parliament have three modes of separation, to wit: by adjournment, by prorogation, or dissolution by the king, or by the efflux of the term for which they were elected. Prorogation or disso-

ion constitutes there what is called a session ; provided some act has passed. In this case all matters depending before them are discontinued, and at their next meeting, are to be taken up *de novo*, if taken up at all. 1 *Blackst.* 186. Adjournment, which is by themselves, is no more than a continuance of the session from one day to other, or for a fortnight, a month, &c. *ad libitum*. All matters depending remain in statu quo, and when they meet again, be the term ever so distant, are resumed without any fresh commencement, at the point at which they were left. 1 *rev.* 165. *Lex. Parl.* c. 2. 1 *Ro. Rep.* 29. 4 *ist.* 7, 27, 28. *Hutt.* 61. 1 *Mod.* 252. *Ruffh.* &c. *L. Dict. Parliament.* 1 *Blackst.* 186. Their whole session is considered in law but as one day, and has relation to the first day thereof. *Bro. Abr. Parliament*, 86.

Committees may be appointed to sit during a recess by adjournment, but not by prorogation. 5 *Grey*, 374. 9 *Grey*, 350. 1 *Chandler*, 50. Neither house can continue any portion of itself in any parliamentary function, beyond the end of the session, without the consent of the other two branches. When done, it is by a bill constituting them commissioners for the particular purpose.

[Congress separate in two ways only, to wit, by adjournment, or dissolution by the efflux of their time. What then constitutes a session with them? A dissolution closes one session, and the meeting of the new congress begins another. The constitution authorises the president, "on extraordinary occasions, to convene both houses, or either of them." I. 3. If convened by the presi-

dent's proclamation, this must begin a new session, and of course determine the preceding one to have been a session. So if it meets under the clause of the constitution, which says, "the congress shall assemble at least once in every year and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day." I. 4. This must begin a new session. For even if the last adjournment was to this day the act of adjournment is merged in the higher authority of the constitution, and the meeting will be under that, and not under their adjournment. So far we have fixed landmarks for determining sessions. In other cases it is declared by the joint vote authorising the president, the senate and the speaker to close the session on a fixed day, which is usually in the following form: "Resolved, by the senate and house of representatives, that the president of the senate and the speaker of the house of representatives be authorised to close the present session by adjourning their respective houses on the — day of —.

When it was said above that all matters depending before parliament were discontinued by the determination of the session, it was not meant for judiciary cases, depending before the house of lords, such as impeachments, appeals and writs of error. These stand continued, of course, to the next session. *Raym.* 120, 381. *Ruff h. Jac. L. D. Parliament.*

[Impeachments stand in like manner, continued before the senate of the United States.]

SEC. LII.—TREATIES.

[The president of the United States has power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur. *Const. U. S. II. 2.*]

[Resolved, that all confidential communications made by the president of the United States to the senate, shall be, by the members thereof, kept secret; and that all treaties, which may hereafter be laid before the senate, shall also be kept secret; until the senate shall, by their resolution, take off the injunction of secrecy. *Rule 38.*]

Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. In all countries, I believe, except England, treaties are made by the legislative power: and there also, if they touch the laws of the land, they must be approved by parliament. *Ware v. Hylton. 3 Dallas Rep. 223.* It is acknowledged, for instance, that the king of Great Britain cannot, by a treaty, make a citizen of an alien. *Vattel. b. 1, c. 19, sec. 214.* An act of parliament was necessary to validate the American treaty of 1783. And abundant examples of such acts can be cited. In the case of the treaty of Utrecht, in 1712, the commercial articles required the concurrence of parliament. But a bill brought in for that purpose was rejected. France, the other contracting party, suffered these articles, in practice, to be not insisted on, and adhered to the rest of the treaty.

4 *Russel's Hist. Mod. Europe*, 457. 2 *Smollet*, 242, 246.

[By the constitution of the United States, this department of legislation is confided to two branches only of the ordinary legislature; the president originating, and the senate having a negative. To what subjects this power extends, has not been defined in detail by the constitution; nor are we entirely agreed among ourselves. 1. It is admitted that it must concern the foreign nation, party to the contract, or it would be a mere nullity, *res inter alios acta*. 2. By the general power to make treaties, the constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and cannot be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the states; for surely the president and senate cannot do by treaty what the whole government is interdicted from doing in any way. 4. And also to except those subjects of legislation in which it gave a participation to the house of representatives. This last exception is denied by some, on the ground that it would leave very little matter for the treaty power to work on. The less the better say others. The constitution thought it wise to restrain the executive and senate from entangling and embroiling our affairs with those of Europe. Besides, as the negotiations are carried on by the executive alone, the subjecting to the ratification of the representatives, such articles as are within their participation, is no more inconvenient than to the senate. But the ground of this exception is denied as unfounded. For examine, e. g. the treaty of com-

erce with France, and it will be found that, out of 31 articles, there are not more than small portions of two or three of them which would not still remain as subjects of treaties, untouched by these exceptions.]

[Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded. This was accordingly the process adopted in the case of France in 1798.]

[It has been the usage for the executive, when he communicates a treaty to the senate for their ratification, to communicate also the correspondence of the negotiators. This having been omitted in case of the Prussian treaty, was asked by a vote of the house, of Feb. 12, 1800, and was obtained. And in December, 1800, the convention of that year between the United States and France, with the report of the negotiations by the envoys, but not their instructions, being laid before the senate, the instructions were asked for and communicated by the president.]

[The mode of voting on questions of ratification is by nominal call.]

[Whenever a treaty shall be laid before the senate for ratification, it shall be read a first time for information only; when no motion to reject, ratify, or modify the whole, or any part, shall be received. Its second reading shall be for consideration, and on a subsequent day, when it shall be taken up as in a committee of the whole, and every one shall be free to move a question on any particular article in this form, "Will the senate

to counsel by the common law, but not in capital cases. *Seld. Jud.* 102—5.

Answer. The answer need not observe great strictness of form. He may plead guilty as to part, and defend as to the residue; or, saving all exceptions, deny the whole, or give a particular answer to each article separately. 1 *Rush.* 274. 2 *Rush.* 1374. 12 *Parl. Hist.* 442. 3 *Lords' Journ.* 13 Nov. 1643. 2 *Wood.* 607. But he cannot plead a pardon in bar to the impeachment. 2 *Wood.* 615. 2 *St. Tr.* 735.

Replication, Rejoinder, &c. There may be a replication, rejoinder, &c. *Sel. Jud.* 114. 8 *Grey's Deb.* 233. *Sach. Tr.* 15. *Jour. H. of Commons*, 6 March, 1640, 1.

Witnesses. The practice is to swear the witnesses in open house, and then examine them there; or a committee may be named, who shall examine them in committee, either on interrogatories agreed on in the house, or such as the committee in their discretion shall demand. *Seld. Jud.* 120, 123.

Jury. In the case of Alice Pierce, 1 *R.* 2, a jury was empannelled for her trial before a committee. *Seld. Jud.* 123. But this was on a complaint, not on impeachment by the commons. *Seld. Jud.* 163. It must also have been for a misdemeanour only, as the lords spiritual sat in the case, which they do on misdemeanours, but not in capital cases. *Id.* 148. The judgment was a forfeiture of all her lands and goods. *Id.* 188. This, Selden says, is the only jury he finds recorded in parliament for misdemeanours: but he makes no doubt, if the delinquent doth put

SEC. LIII.—IMPEACHMENT.

[The house of representatives shall have the sole power of impeachment. *Const. U. S. I. 3.*]

[The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit under the United States. But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law. *Const. I. 3.*]

[The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors. *Const. II. 4.*]

[The trial of crimes, except in cases of impeachment, shall be by jury. *Const. III. 2.*]

These are the provisions of the constitution of the United States on the subject of impeachments. The following is a sketch of some of the principles and practices of England on the same subject.

Jurisdiction. The lords cannot impeach any to themselves, nor join in the accusation, because they are the judges. *Seld. Judic. in Parl. 12, 63.* Nor can they proceed against a commoner but on complaint of the commons. *Id. 84.* The

lords may not, by law, try a commoner for a capital offence, on the information of the king or a private person; because the accused is entitled to a trial by his peers generally; but on accusation by the house of commons, they may proceed against the delinquent, of whatsoever degree, and whatsoever be the nature of the offence; for there they do not assume to themselves trial at common law. The commons are then instead of a jury, and the judgment is given on their demand, which is instead of a verdict. So the lords do only judge, but not try the delinquent. *Id.* 6, 7. But Wooddeson denies that a commoner can now be charged capitally before the lords, even by the commons; and cites Fitzharris's case, 1681, impeached of high treason, where the lords remitted the prosecution to the inferior court. 8 *Grey's Deb.* 325-7. 2 *Wooddeson*, 601, 576. 3 *Seld.* 1610, 1619, 1641. 4 *Blackst.* 257. 3 *Seld.* 1604, 1618. 9, 1656.

Accusation. The commons, as the grand inquest of the nation, become suitors for penal justice. 2 *Wood.* 597. 6 *Grey*, 356. The general course is to pass a resolution containing a criminal charge against the supposed delinquent, and then to direct some member to impeach him by oral accusation, at the bar of the house of lords, in the name of the commons. The person signifies that the articles will be exhibited, and desires that the delinquent may be sequestered from his seat, or be committed, or that the peers will take order for his appearance. *Sachev. Trial*, 825. 2 *Wood.* 602, 605. *Lords' Journ.* 3 June, 1701. 1 *Wms.* 616. 6 *Grey*, 235.

Process. If the party do not appear, proclamations are to be issued, giving him a day to appear. On their return they are strictly examined. If any error be found in them, a new proclamation issues, giving a short day. If he appear not, his goods may be arrested, and they may proceed. *Seld. Jud.* 98, 99.

Articles. The accusation, (articles,) of the commons is substituted in place of an indictment. Thus, by the usage of parliament, in impeachment for writing or speaking, the particular words need not be specified. *Sach. Tr.* 325. 2 *Wood.* 602, 605. *Lords' Journ.* 3 June, 1701. 1 *Wms.* 616.

Appearance. If he appears, and the case be capital, he answers in custody: though not if the accusation be general. He is not to be committed but on special accusations. If it be for a misdemeanour only, he answers, a lord in his place, a commoner at the bar, and not in custody, unless, on the answer, the lords find cause to commit him, till he find sureties to attend, and lest he should fly. *Seld. Jud.* 98, 99. A copy of the articles is given him, and a day fixed for his answer. *T. Ray.* 1 *Rushw.* 268. *Fost.* 232. 1 *Clar. Hist. of the Reb.* 379. On a misdemeanour, his appearance may be in person, or he may answer in writing, or by attorney. *Seld. Jud.* 100. The general rule on an accusation for a misdemeanour, is, that in such a state of liberty or restraint as the party is when the commons complain of him, in such he is to answer. *Id.* 101. If previously committed by the commons, he answers as a prisoner. But this may be called in some sort *judicium parium suorum.* *Ib.* In misdemeanours the party has a right



himself on the trial of his country, a jury ought to be empannelled, and he adds that it is not so on impeachment by the commons; for they are in loco proprio, and there no jury ought to be empannelled. *Id.* 124. The *Ld. Berkeley*, 6 *E.* 3, was arraigned for the murder of *L.* 2, on an information on the part of the king, and not on impeachment of the commons; for then they had been patria sua. He waived his peerage, and was tried by a jury of Gloucestershire and Warwickshire. *Id.* 125. In 1 *H.* 7, the commons protest that they are not to be considered as parties to any judgment given, or hereafter to be given in parliament. *Id.* 133. They have been generally, and more justly considered, as is before stated, as the grand jury. For the conceit of Selden is certainly not accurate, and they are the patria sua of the accused, and that the lords do only judge, but not try. It is undeniable that they do try. For they examine witnesses as to the facts, and acquit or condemn, according to their own belief of them. And Lord Hale says, "the peers are judges of law as well as of fact." 2 *Hale, P. C.* 275. Consequently of fact as well as of law.

Presence of commons. The commons are to be present at the examination of witnesses. *Seld. Jud.* 124. Indeed they are to attend throughout, either as a committee of the whole house, or otherwise, at discretion, appoint managers to conduct the proofs. *Rushw. Tr. of Straff.* 37. *Com. Journ.* 4 Feb. 1709-10. 2 *Woodd.* 614. And judgment is not to be given till they demand it. *Seld. Jud.* 124. But they are not to be present on impeachment when the lords consider of the

answer or proofs, and determine of their judgment. Their presence, however, is necessary in the answer and judgment in cases capital. *Id.* 5159, as well as not capital, 162. The lords debate the judgment among themselves. Then the vote is first taken on the question of guilty or not guilty; and if they convict, the question, or particular sentence, is out of that which seemeth to be most generally agreed on. *Seld. Jud.* 167. *Woodd.* 612.

Judgment. Judgments in parliament, for death, have been strictly guided per legem terræ, which they cannot alter; and not at all according to their discretion. They can neither omit any part of the legal judgment, nor add to it. Their sentence must be secundum, non ultra legem. *Seld. Jud.* 168—171. This trial, though it varies in external ceremony, yet differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments, prevail. For impeachments are not framed to alter the law, but to carry it into more effectual execution against too powerful delinquents. The judgment, therefore, is to be such as is warranted by legal principles or precedents. 6 *Sta. Tr.* 14. 2 *Woodd.* 611. The chancellor gives judgment in misdemeanours; the lord high steward formerly in cases of life and death. *Seld. Jud.* 180. But now the steward is deemed not necessary. *Fost.* 144. 2 *Woodd.* 613. In misdemeanours the greatest corporal punishment hath been imprisonment. *Seld. Jud.* 184. The king's assent is necessary in capit

udgments, (but 2 *Woodd.* 614, contra) but not in misdemeanours. *Seld. Jud.* 136.

Continuance. An impeachment is not discontinued by the dissolution of parliament; but may be resumed by the new parliament. *T. Ray.* 383. 4 *Com. Journ.* 23 *Dec.* 1790. *Lords' Jour.* May 16, 1791. 2 *Woodd.* 618.



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JOHN FORSYTH, Georgia, Secretary of State.

DEVI WOODBURY, New Hampshire, Secretary of the Treasury.

JOEL R. Poinsett, South Carolina, Secretary of War.

JAMES K. PAULDING, New York, Secretary of the Navy.

MOS KENDALL, Kentucky, Postmaster General.

ELIX GRUNDY, Tennessee, Attorney General.

LIST OF MEMBERS

OF THE

TWENTY-FIFTH CONGRESS. 1838-9.

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United States, and President of the Senate.
Asbury Dickens, Secretary of the Senate.

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Daniel Webster	Robert Strange
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<i>Vermont.</i>	<i>Kentucky.</i>
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Benjamin Swift	John J. Crittenderr
<i>New York.</i>	<i>Tennessee.</i>
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Silas Wright, Jun.	<i>Vacancy</i>
<i>New Jersey.</i>	<i>Ohio.</i>
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Samuel McKean	Robert C. Nicholas
<i>Delaware.</i>	<i>Indiana.</i>
Richard H. Bayard	Oliver H. Smith
Thomas Clayton	John Tipton

Mississippi.

cy.
J. Walker

Illinois.

M. Robinson
d M. Young

Alabama.

nt C. Clay
m R. King

Missouri.

Thomas H. Benton
Lewis F. Linn

Arkansas.

Ambrose H. Sevier
William S. Fulton

Michigan.

John Norval
Lucius Lyon

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— — — — —, Clerk of the House.

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rris

as Davee

e Evans

Fairfield

i C. Noyes

is O. J. Smith

rd Robinson 8

New Hampshire.

es G. Atherton

el Cushman

Farrington

i Weeks

W. Williams, 5

Massachusetts.

rd Fletcher

en C. Phillips

Cushing

m Parmenter

Lincoln

e Grennell, jr.

e N. Briggs

m B. Calhoun

m S. Hastings

niel B. Borden

John Reed

John Quincy Adams, 12

Rhode Island.

Robert B. Cranston

Joseph L. Tillinghast 2

Connecticut.

Isaac Toucey

Samuel Ingham

Thomas T. Whittlesey

Elisha Haley

Lancelot Phelps

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William H. Noble

Samuel Birdsall

Mark H. Sibley

John T. Andrews

Timothy Childs

H. Putnam

Luther C. Peck

Richard P. Marvin

Millard Fillmore

Charles F. Mitchell 40

New Jersey.

John B. Aycrigg

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John P. B. Maxwell

Joseph F. Randolph

Charles C. Stratton

Thomas Jones Yorke 6

Pennsylvania.

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William Beatty

Thomas Henry

Arnold Plumer 28

Delaware.

John J. Milligan 1

Maryland.

John Dennis

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Benjamin C. Howard

John P. Kennedy

William Cost Johnson

Francis Thomas

Daniel Jenifer 8

Virginia.

7 Biene
W. Bouldin
Coles
Craig
C. Dromgoole
Garland

W. Hopkins
M. Hunter
Johnson
V. Jones
; Mallory
M. Mason
; F. Mercer
n S. Morgan
lanks

l. Pennybacker
; E. Rives
Robertson
ald Steuart
Valiaferro
A. Wise 21

North Carolina.

l T. Sawyer
A. Bynum
d Stanly
s Shepard
J. McKay
h T. Hawkins
id Deberry
m Montgomery
line H. Shepperd
um Rencher
W. Connor
Graham
Williams 13
South Carolina.
Jampbell
m K. Clowney
in H. Elmore

John K. Griffin
Hugh S. Legare
Francis W. Pickens
John P. Richardson
Robert Barnwell Rhett
Waddy Thompson, jr. 9

Georgia.

Jesse F. Cleaveland
William C. Dawson
Thomas Glasscock
Seaton Grantland
Charles E. Haynes
Hopkins Holsey
Jabez Jackson
George W. Owens
Geo. W. B. Towns 9

Kentucky.

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Edward Rumsey
Joseph R. Underwood
Sherrod Williams
James Harlan
John Calhoon
John Pope
William J. Graves
John White
Richard Hawes
Richard H. Menefee
John Chambers
Wm. W. Southgate 13

Tennessee.

William B. Carter
Abraham McClellan
Joseph L. Williams
William Stone
Hopkins L. Turney
Wm. B. Campbell
John Bell
Abram P. Maury
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Ebenezer J. Shields

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John W. Crockett

Christopher H. Williams 13

Ohio.

Alexander Duncan

Taylor Webster

Patrick G. Goode

Thomas Corwin

Thomas L. Hamer

Calvary Morris

William K. Bond

Joseph Ridgway

John Chaney

Samson Mason

James Alexander, jr.

Alexander Harper

Daniel P. Leadbetter

William H. Hunter

John W. Allen

Elisha Whittlesey

Charles D. Coffin

Matthias Sheplor

Henry Swearinger 19

Louisiana.

Henry Johnson

Eleazer W. Ripley

Rice Garland 3

Indiana.

Ratliff Boon

John Ewing

William Graham

George H. Dunn

James Rariden

William Herod

Albert S. White 7

Mississippi.

S. S. Prentiss

Thomas J. Word 2

Illinois.

Adam W. Snyder

Zadok Casey

William L. May 3

Alabama.

Reuben Chapman

Joshua L. Martin

George W. Crabb

Dixon H. Lewis

Francis S. Lyon 5

Missouri.

Albert G. Harrison

John Miller 2

Arkansas.

Archibald Yell 1

Michigan.

Isaac E. Crary 1

DELEGATES.

Florida Ter'y.

Charles Downing

Wisconsin Ter'y.

George W. Jones

INDEX

TO THE

TITUTION OF THE UNITED STATES.

	Art.	Sec.	Pa.
<i>Sciences, to be promoted</i>	1	8	15
<i>ords, and judicial proceedings of each</i>			
<i>, entitled to faith and credit in other</i>			
<i>3</i>	4	1	24
<i>ents to the Constitution, how made</i>	5	1	26
<i>do. made</i>			29
<i>ents, to be made by President</i>	2	2	21
<i>ment of Representatives</i>	1	2	10
<i>ations by law</i>	1	9	17
<i>ation for Army, not to exceed two years</i>	1	8	16
<i>Congress to raise and support</i>	1	8	16
<i>ht of the people to keep and bear</i>			29
<i>people may</i>			29
<i>, bill of, prohibited to Congress</i>	1	9	17
<i>prohibited to the States</i>	1	10	18
<i>, of treason, shall not work corruption</i>			
<i>ood or forfeiture, except during the</i>			
<i>f the person attainted</i>	3	3	24
<i>ssive, not required</i>			30
<i>ty laws to be uniform</i>	1	8	15
<i>raising revenue, shall originate in the</i>			
<i>ouse of Representatives</i>	1	7	13
<i>re they become laws, shall be passed by</i>			
<i>th Houses, and approved by President;</i>			
<i>, if disapproved, shall be passed by two-</i>			
<i>irds of each House</i>	1	7	13
<i>returned in ten days, unless an ad-</i>			
<i>rnment intervene, shall be laws</i>	1	7	14
<i>oney, Congress may,</i>	1	8	15
<i>n tax, apportionment of,</i>	1	9	17

	Art.	Sec.	Pa.
<i>Census</i> , or enumeration, to be made every ten years	1	2	10
<i>Citizens</i> of each State, shall be entitled to the privileges and immunities of citizens in the several States	4	2	24
<i>Claims</i> , no prejudice to certain	4	3	25
<i>Claims</i> of the United States, or of the several States, not to be prejudiced by any construction of the Constitution	4	3	25
<i>Coasting trade</i> , regulations respecting	1	8	15
same same	1	9	17
<i>Coins</i> , Congress fix value of foreign	1	8	15
<i>Commerce</i> , Congress to regulate regulations respecting, to be equal and uniform	1	9	17
<i>Commissions</i> , to be granted by the President	2	3	22
<i>Common law</i> , recognised and established, 7th amendment			30
<i>Congress</i> , vested with power	1	1	9
may alter the regulations of State Legislatures concerning elections of Senators and Representatives, except as to <i>place</i> of choosing Senators	1	4	12
shall assemble once every year	1	4	12
officers of Government cannot be members of	1	6	13
may provide for cases of removal, death, &c. of President and Vice President	2	1	20
may determine the time of choosing electors of President and Vice President	2	1	20
may invest the appointment of inferior officers in the President alone, in the courts of law, or the Heads of Departments	2	2	21
may establish Courts inferior to the Supreme Court	3	1	22
may declare the punishment of treason	3	3	24
may prescribe the manner of proving the acts and records of each State	4	1	24
to assent to the formation of new States	4	3	25
may propose amendments to Constitution, or, call a Convention	5	1	25

OF THE UNITED STATES.

iii

	Art.	Sec.	Pa.
<i>Congress to lay and collect duties</i>	1	8	14
to borrow money	1	8	15
to regulate commerce	1	8	15
to establish uniform laws of bankruptcy and naturalization	1	8	15
to coin money, regulate the value of coin, and fix a standard of weights and measures	1	8	15
to punish counterfeiting	1	8	15
to establish post offices and post roads	1	8	15
to authorise patents to authors and inventors	1	8	15
to constitute tribunals <i>inferior</i> to the Supreme Court	1	8	15
to define and punish piracies, felonies on the high seas, and offences against the laws of nations	1	8	15
to declare war, grant letters of marque, and make rules concerning captures	1	8	15
to raise and support Armies	1	8	16
to provide and maintain a Navy	1	8	16
to make rules for the government of the Army and Navy	1	8	16
to call out the militia in certain cases	1	8	16
to organize, arm, and discipline militia	1	8	16
to exercise exclusive legislation over seat of Government	1	8	16
to pass laws necessary to carry the enumerated powers into effect	1	8	16
to dispose of, and make rules concerning the territory or other property of the United States	4	3	26
President may convene and adjourn, in certain cases	2	3	26
<i>Constitution, how amended</i>	5	1	22
laws and treaties, declared to be the supreme law	6	1	27
rendered operative by the ratification of nine States	7	1	27
<i>Contracts, no law impairing</i>	1	10	18

	Art.	Sec.	Pa.
<i>Conventions</i> , for proposing amendments to Constitution	5	1	26
<i>Counterfeiting</i> , Congress to provide for punishment	1	8	15
<i>Court</i> , Supreme, its original and appellate jurisdiction	3	2	20
<i>Courts</i> , inferior to the Supreme Court, may be ordained by Congress	1	8	15
ditto ditto	3	1	22
<i>Crimes</i> , persons accused of, fleeing from justice, may be demanded	4	2	25
how to be tried	3	2	24
<i>Criminal prosecutions</i> , proceedings in cases of			30
<i>Debts</i> , against the Confederation to be valid	6	1	27
<i>Duties</i> , to be laid by Congress, and to be uniform	1	8	14
further provision respecting	1	9	17
cannot be laid by the States	1	10	17
on exports prohibited	1	9	17
on imports and exports, imposed by States, shall enure to the Treasury of the United States	1	10	18
<i>Elections</i> , of Senators and Representatives, shall be prescribed by the States,	1	4	12
qualifications and returns of members of Congress, to be determined by each House	1	5	12
<i>Electors</i> , of President and Vice President, how chosen, and their duties	2	1	19
altered, see 12th Amendment			31
to vote the same day throughout the U. S.	2	1	20
no Senator, or Representative, or public officer shall serve as	2	1	19
<i>Enumeration</i> , every ten years	1	2	10
<i>Executive Power</i> vested in a President.— See <i>President</i> .	2	1	18
<i>Exports</i> , not to be taxed	1	9	17
and imports, States prohibited from laying duties on	1	10	18
<i>Ex post facto Law</i> , none shall be passed prohibited to States	1	9	17
	1	10	18

OF THE UNITED STATES.

v

	Art.	Sec.	Pa.
<i>Fines, excessive</i> —prohibited			30
<i>Fugitives</i> , from Justice, to be delivered up	4	2	25
from service, may be reclaimed	4	2	25
<i>Habeas Corpus</i> , writ of, can only be suspended in cases of rebellion or invasion	1	9	17
<i>House of Representatives</i> —See <i>Representatives</i> .			
<i>Impeachment</i> , to be brought by House of Repre- sentatives	1	2	10
tried by the Senate	1	3	11
judgment on	1	3	12
all civil officers liable to	2	4	22
<i>Importation of Slaves</i> , not prohibited, till 1808	1	9	17
<i>Judges</i> , shall hold their offices during good be- haviour	3	1	23
<i>Judiciary</i> , tribunals inferior to Supreme Court may be created	1	8	15
<i>Judges</i> , their compensation	3	1	23
<i>Judicial Power</i> , vested in a Supreme Court, and Courts inferior	3	1	22
powers of the judiciary	3	2	23
restriction as to suits against a State			31
<i>Judicial Proceedings</i> of each State are entitled to faith and credit in every State	4	1	24
<i>Jury Trial</i> secured and shall be held in the State where the crime shall have been committed	3	2	23
further regulated, 6th Amendment			30
secured in suits at Common Law where the value in controversy shall exceed 20 dollars, 7th Amendment			30
<i>Law</i> , what is declared the Supreme	6	1	27
<i>Law, Common</i> , recognised and established, 7th Amendment			3
<i>Laws</i> , President to see them faithfully exe- cuted	2	3	22
<i>Legislative Powers</i> , vested in Congress.—See <i>Congress</i> .			
<i>Loans</i> , authority to make	1	8	15
<i>Marque and Reprisal</i> , letters of	1	8	15

	Art.	Sec.	Pa.
<i>Militia</i> to be called out, armed, &c. by Congress	1	8	16
to be officered by the States	1	8	16
to be commanded by President	2	2	21
their right to keep and bear arms secured, 2d Amendment			29
<i>Money</i> shall be drawn from the Treasury, only by appropriation laws	1	9	17
Congress to coin and regulate value	1	8	15
States cannot make	1	10	18
<i>Naturalization</i> , uniform rules	1	8	15
<i>Navy</i> , Congress to provide and govern	1	8	16
<i>Nobility</i> , titles of, shall not be granted by the United States	1	9	17
nor by the States	1	10	17
<i>Officers</i> of House of Representatives shall be chosen by the House	1	2	10
of the Senate, shall be chosen by the Senate	1	3	11
civil, may be removed by impeachment	2	4	22
<i>Order</i> of one House, requiring the concurrence of the other	1	7	14
<i>Oath</i> , of the President	2	1	21
of all Public Officers	6		27
<i>Pardons</i> , President may grant	2	2	21
<i>Patents</i> to be granted to Inventors,	1	8	15
<i>Petition</i> , right of			29
<i>Persons</i> held to labour or service, their importation or migration into the United States may be prohibited after 1808	1	9	17
escaping from one State to another, shall be delivered up to those entitled to service	4	2	25
<i>Piracy</i> , Congress to prescribe punishment	1	8	15
<i>Post Offices and Post Roads</i> , establishment of	1	8	15
<i>Powers</i> not delegated to Congress, nor prohibited to the States, are reserved, 10th Amendment			31
Legislative.—See <i>Congress</i> .			
Executive.—See <i>President</i> .			

OF THE UNITED STATES.

vii

	Art.	Sec.	Pa.
<i>Powers, Judicial.—See Judicial.</i>			
<i>Presents</i> from foreign powers to public officers prohibited	1	9	17
<i>Press</i> , freedom of			29
<i>President of the U. S.</i> vested with the executive power	2	1	18
shall be chosen for four years	2	1	19
how elected	2	1	19
same, 12th Amendment			31
qualifications for	2	1	20
who shall act in case of vacancy	2	1	20
compensation of	2	1	21
shall take an oath of office	2	1	21
may be removed by impeachment	2	4	22
<i>President</i> , commander of army, navy, and militia	2	2	21
may require the written opinions of the heads of departments	2	2	21
may reprieve and pardon	2	2	21
may make treaties with consent of the Senate	2	2	21
may appoint to office with the consent of the Senate	2	2	21
shall fill up vacancies happening during the recess of the Senate	2	2	22
shall give information to Congress, and recommend measures	2	3	22
may convene both Houses, or either House	2	3	22
may adjourn them in case of disagreement	2	3	22
shall receive ambassadors and public ministers	2	3	22
shall take care that the laws be faithfully executed	2	3	22
shall commission all officers	2	3	22
<i>Privileges</i> and immunities of members of Congress	1	6	13
Of Citizens— <i>See Citizens, also Rights.</i>			
<i>Property</i> , Congress to provide for care of public	4	3	25
shall not be taken for public use, without just compensation; 5th Amendment			30

	Art.	Sec.	Pa.
<i>Punishments</i> cruel and unusual prohibited			30
<i>Quorum</i> , for business, what shall be	1	6	12
of States, in choosing a President by the			
House of Representatives	2	1	20
<i>Quartered</i> , no soldier to be quartered on a citizen			20
<i>Receipts</i> and expenditures, accounts of, to be published	1	9	17
<i>Records</i> , how to be authenticated	4	1	24
<i>Religion</i> , no law to be made, free exercise of			29
religious test not required	6		26
<i>Reprieves</i> granted by the President	2	2	21
<i>Representatives</i> , House of, composed of mem- bers chosen every second year	1	2	9
qualifications of voters	1	2	9
qualifications of members	1	2	9
apportionment of	1	2	10
<i>Representatives</i> , vacancies how supplied	1	2	10
shall choose their officers	1	2	10
shall have the power of impeachment	1	2	10
shall be the judge of the election and quali- fications of its members	1	5	12
what shall be a quorum of	1	5	12
any number may adjourn, and compel the attendance of absentees	1	5	12
may determine the rules of proceeding	1	5	12
may punish or expel a member	1	5	12
shall keep a journal, and publish the same	1	5	12
shall not adjourn for more than three days, nor to any other place, without the con- sent of the Senate	1	5	13
one-fifth may require the yeas and nays	1	5	12
shall originate bills for raising a revenue	1	7	13
compensation, to be ascertained by law	1	6	13
privileged from arrest except in certain cases	1	6	13
shall not be questioned for speech or debate in the House	1	6	13
shall not be appointed to office	1	6	13
shall not serve as electors of President	2	1	19
<i>Representatives</i> and direct taxes apportioned ac- cording to numbers	1	2	10

	Art.	Sec.	Pa.
<i>representation of a State, vacancies in, supplied until a new election by Executive authority</i>	1	2	10
<i>resolution, order, or vote, requiring the concurrence of both houses, to undergo the formalities of bills</i>	1	7	14
<i>revenue Bills, to originate in House of Representatives</i>	1	7	13
<i>rights of the Citizen declared to be—</i>			
privileges of citizens of the several States	4	2	24
liberty of conscience in matters of religion			29
freedom of speech and of the press			29
to assemble and petition			29
to keep and bear arms			29
to be exempt from the quartering of soldiers	3		29
to be secure from unreasonable searches and seizures			29
to be free, from answering for a crime, unless on presentment or indictment of a jury			29
not to be twice jeopardized for the same offence			30
nor to be compelled to be a witness against himself			30
not to be deprived of life, liberty, or property, without due course of law			30
private property not to be taken for public use			30
in criminal prosecutions, shall enjoy the right of a speedy trial by jury with all the means necessary for his defence			30
in civil cases, trial to be by a jury and shall only be re-examined according to common law			30
excessive bail shall not be required, excessive fines imposed, nor cruel or unusual punishments inflicted			30
enumeration of certain rights shall not operate against retained rights			30

	Art.	Sec.	Pr.
<i>Rules, each house shall determine its own</i>	1	5	12
<i>Seat of Government, exclusive legislation</i>	1	9	10
<i>Searches and Seizures, security against</i>			29
<i>Senate, composed of two Senators from each State</i>	1	3	10
how chosen, classed, and terms of service	1	3	11
qualifications of Senators	1	3	11
Vice President to be President of the Senate	1	3	11
shall choose their officers	1	3	11
shall be the judge of the elections and qualifications of its members	1	5	12
what number shall be a quorum	1	5	12
any number may adjourn, and compel attendance of absentees	1	5	12
may determine its rules	1	5	12
may punish or expel a member	1	5	12
shall keep a journal, and publish the same, except parts requiring secrecy	1	5	12
shall not adjourn for more than three days, nor to any other place, without the consent of the other House	1	5	13
one-fifth may require the yeas and nays	1	5	12
may propose amendments to bills for raising revenue	1	7	13
shall try impeachments	1	3	11
effect of their judgment on impeachment	1	3	11
compensation to be ascertained by law	1	6	13
privileged from arrest	1	6	13
not questioned for any speech or debate	1	6	13
shall not be appointed to office	1	6	13
Senator shall not be elector	2	1	19
<i>Senators and Representatives, election of, how prescribed</i>	1	4	12
<i>Slaves, their importation may be prohibited after 1808</i>	1	9	17
escaping from one State to another, may be reclaimed	4	2	25
<i>Soldiers not quartered on citizens</i>			29
<i>Speaker, how chosen</i>	1	2	10

OF THE UNITED STATES.

xi

Art. Sec. Pa.
29

<i>Speech, freedom of</i>			
<i>States prohibited from</i>			
entering into treaty, alliance or confederation	1	10	18
granting letters of marque	1	10	18
coining money	1	10	18
emitting bills of credit	1	10	18
making any thing a tender but gold and silver coin	1	10	18
passing bills of attainder, ex post facto laws, or laws impairing contract	1	10	18
granting titles of nobility	1	10	18
laying duties on imports and exports	1	10	18
laying duties on tonnage	1	10	18
keeping troops, or ships of war, in time of peace	1	10	18
entering into any agreement or contract with another State, or a foreign power	1	10	18
engaging in war	1	10	18
<i>States, new, may be admitted into the Union</i>	4	3	25
may be formed within the jurisdiction of others, or by the junction of two or more, with the consent of Congress and the Legislatures concerned	4	3	25
<i>State Judges bound to consider treaties, the constitution, and the laws under it, as supreme</i>	6		27
<i>State, guarantied a republican form of government; protected by United States</i>	4	4	26
<i>Supreme Court—See Court—and Judiciary</i>			
<i>Suits at Common Law, proceedings</i>			36
<i>Tax direct according to representation</i>	1	2	10
shall be laid only in proportion to census	1	9	17
<i>Tax on exports prohibited</i>	1	9	17
<i>Tender, what shall be a legal</i>	1	10	18
<i>Territory, or public property, Congress may make rules concerning</i>	4	3	25
<i>Test, religious, shall not be required</i>	6		27
<i>Titles.—See Nobility.</i>			
<i>Title, from foreign State prohibited</i>	1	9	18

	Art.	Sec.	Pa.
<i>Treason</i> , defined	3	3	24
two witnesses, or confession, necessary for conviction	3	3	24
punishment of, may be prescribed by Congress	3	3	24
<i>Treasury</i> , money drawn from only by appropriation	1	9	17
<i>Treaties</i> , how made	2	2	21
the supreme law	2	6	27
State cannot make	1	10	18
<i>Vacancies</i> , happening during the recess may be filled temporarily by the President	2	2	22
in representation in Congress, how filled	1	2	10
<i>Veto of the President</i> , effect of, and proceedings on	1	7	13
<i>Vice President of the United States</i> .			
to be President of the Senate	1	3	11
how elected	2	1	19
amendment			31
shall, in certain cases, discharge the duties of President	2	1	20
may be removed by impeachment	2	4	22
<i>Vote of one House</i> , requiring concurrence of the other	1	7	14
<i>War</i> , Congress to declare	1	8	15
<i>Warrants</i> for searches and seizures, when and how they shall issue, 4th amendment			29
<i>Witness</i> , in criminal cases, no one compelled to be against himself, 5th Amendment			30
<i>Weights and Measures</i> , standard of	1	8	15
<i>Yeas and Nays</i> entered on Journal	1	5	13

INDEX

TO THE

RULES OF THE SENATE OF THE U. STATES.

COMPILED BY AN OFFICER OF THE SENATE.

	No.	Pa.
<i>Absence</i> , from the Senate, not allowed without leave	8	35
without leave, in cases of, the Serjeant-at-arms		
may be sent	8	35
<i>Address to the President</i> , how to be presented (joint rule)	11	48
<i>Adhere</i> , effect of a vote in the two Houses to (joint rule)	15	48
<i>Adjournment</i> , motion for, has precedence	11	35
<i>Admission</i> on the floor, the persons entitled to	47	44
<i>Amendments</i> to a resolution to amend the Constitu-		
tion, carried by a majority	43	44
to bills on which the two Houses disagree, con-		
ference upon (joint rule)	1	46
<i>Appeal</i> allowed from the decision of the President	6	36
<i>Bills</i> may be introduced upon one day's notice	25	38
shall be read twice before amendment or refer-		
ence	27	38
reported, shall be printed	25	38
shall receive three readings on different days	26	38
on second reading, considered as in Commit-		
tee of the whole	28	39
proceeding on, at different stages	29	39
titles of, only, and parts affected by amend-		
ments, inserted on the journal	31	40
engrossed, how examined, reported and entered	33	40
on their passage to be on paper (joint rule)	5	46
to be enrolled on parchment after passing the		
two houses (joint rule)	6	46

<i>Bills passed one House and lost in the other, notice to be given of (joint rule)</i>	12	48
<i>passed one House and lost in the other, how they may be renewed (joint rule)</i>	13	48
<i>when sent from one House to the other, to be accompanied by the papers on which they are founded (joint rule)</i>	14	48
<i>not to be sent from one House to the other for concurrence on the three last days of the session (joint rule)</i>	16	48
<i>not to be presented to the President on the last day of a session (joint rule)</i>	17	48
<i>joint rule relative to printing of</i>	18	48
<i>Blanks, in filling, what motions have preference</i>	13	36
<i>Business, unfinished, has preference</i>	15	36
<i>Capitol, no spirits to be brought within or about (joint rule)</i>	19	49
<i>Chair to be addressed</i>	3	34
<i>Character of persons nominated to be kept secret</i>	39	43
<i>Commit, motion to, in order at any time before final passage</i>	29	39
<i>Committee on Enrolled Bills, appointment and duties of (joint rule)</i>	7	47
<i>Committees, standing</i>	33	40
<i>how appointed</i>	34	41
<i>on enrolled bills</i>	7	34
<i>reports from standing, when received</i>	24	37
<i>reports of, to lie one day</i>	26	38
<i>Communications, confidential, to be kept secret</i>	38	43
<i>Conference on disagreeing votes of the two Houses, rule respecting (joint rule)</i>	1	46
<i>Consent, bills may be read three times in one day by unanimous</i>	26	38
<i>nominations may be considered on the day received, by unanimous</i>	36	41
<i>Constitution, what majority requisite to amend a resolution proposing amendments to the</i>	43	44
<i>Conversation among the members, not allowed during the debate, or while papers are reading</i>	3	34

RULES OF THE SENATE.

xv

	No.	Pa.
<i>Debate</i> , no member to speak more than twice, in the same, in one day, without leave	4	34
not allowed on a call to order	6	34
prohibited on a motion to adjourn	11	35
not allowed on a call for reading papers	14	36
not allowed in taking yeas and nays	16	36
<i>Documents</i> , to be printed only by special order	25	38
<i>Enrolled Bills</i> , to be examined by the committee, (joint rule)	7	47
provision for the appointment of the committee on (joint rule)	7	47
to be signed by the presiding officers of the two houses (joint rule)	8	47
how to be presented to the President, and the time to be noted (joint rule)	9	47
not to be presented to the president on last day of session (joint rule)	17	48
<i>Executive Record</i> , extracts from, prohibited	42	43
<i>Executive Proceedings</i> , to be kept in separate books	41	43
<i>Floor of Senate</i> , reporters placed on	47	44
the persons entitled to admission on	47	44
<i>Galleries</i> , when they shall be cleared	18	36
<i>Journal</i> , to be read on a quorum assembling	1	34
to contain the titles, only, of bills, and the parts affected by proposed amendments	31	40
every vote to be entered on	32	40
a brief statement of every memorial, petition, and paper, to be entered on	33	40
to be as concise as possible, when acting as in Committee of the Whole	32	40
engrossed bills to be entered on	33	40
<i>Leave</i> to bring in a bill, one day's notice of motion for, required	25	38
<i>Members</i> , prohibited from speaking to each other during debate	2	34
present, not a quorum, empowered to send for absent members	8	35
shall express assent or dissent by ay or no	22	37

	No.	Pa.
<i>Member</i> , when he speaks shall address the Chair	3	34
first rising and addressing the Chair, shall speak first	5	34
called to order by President or Senator, shall sit down	6	34
words of, shall be taken down, when called to order by a Senator	7	34
shall not absent himself without leave	8	35
any, may desire a motion to be reduced to writing	10	35
may have a question divided, if susceptible of division	12	35
required to vote when yeas and nays are called	16	36
not allowed to vote after decision is announced	17	36
<i>Memorial or petition</i> , contents of, shall be stated before received and read	24	37
when received	24	37
how referred	24	37
contents of, to be entered on the journal	32	40
<i>Messages between the two Houses</i> , how to be announced and delivered (joint rule)	2-3	46
by whom to be sent (joint rule)	4	46
<i>Messengers</i> , when introduced	46	44
<i>Motion</i> , not to be debated until seconded	9	35
made and seconded, shall, if desired, be reduced to writing	10	35
to be read before debated	10	35
to adjourn, has preference	11	35
to adjourn, to be decided without debate	11	35
privileged, what shall be, when a subject is under debate	11	35
privileged in filling blanks	13	36
privileged, in reference to select or standing committees	35	41
to close the galleries, shall be discussed confidentially	18	36
to admit persons for the purpose of presenting memorial, not in order	19	37
to reconsider, when and by whom may be made	44	44
<i>Newspapers</i> , not to be read while a member is speaking	2	34

RULES OF THE SENATE.

xvii

No. Pa.

<i>minations</i> not to be considered on the day received, unless by consent	36	41
<i>time</i> of one day required of an intended motion for leave to bring in a bill	25	38
<i>orders</i> of the day, special, not called before 1 o'clock of the day, special, unfinished business has preference in	30	39
<i>order</i> upon a call to, the member shall sit down	15	36
questions of, to be decided without debate	6	34
appeals on questions of, may be made from the President's decision	6	34
on questions of, the President may require the sense of the Senate	6	34
upon a call to, by a Senator, for words spoken, the exceptionable words shall be taken down	7	34
<i>papers and Documents</i> not to be printed without special order	25	38
<i>persons</i> not admitted to present a memorial, &c.	19	37
entitled to admission on floor, the	47	44
<i>petition</i> , before received, contents of to be stated	24	37
when received,	24	37
how referred	24	37
contents of those presented to be entered on the journal	32	40
<i>resident</i> to be first addressed by the speaker	3	34
to decide when two or more rise at the same time to speak	5	34
to decide questions of order	6	34
may call for the sense of the Senate on a question of order	6	34
may desire a motion to be reduced to writing	10	35
to decide on an equal division	21	37
decision of, on an equal division, to be taken by the Secretary	21	37
shall put all questions	22	37
may, for a limited time, name a member to perform the duties of the Chair	23	37
may appoint a chairman, while the Senate are acting as in committee of the whole	28	39
to give notice of the several readings of bills	26	38

	No.	Pa.
to have the regulation of the parts of the capitol appropriated to the Senate	48	45
<i>President of the U. S.</i> manner of presenting bills and resolutions to the (joint rule)	9	47
manner of presenting joint addresses to the (joint rule)	11	48
no bill or resolution to be presented on the last day of the session to the (joint rule)	17	48
to be assigned the president's chair when attending the deliberations of the Senate	36	41
<i>Printing of bills</i> , joint rule relating to	18	36
<i>Question under debate</i> , when, and what motions superseded	11	35
may be divided	12	35
final, on second reading	29	39
to be decided, ay or no	22	37
to be put by the President of the Senate	22	37
on amending the constitution, short of the main question, to be determined by a majority	43	44
<i>Quorum</i> , proceedings when a less number shall have assembled	8	35
<i>Reading newspapers</i> prohibited while the Senate are in session	3	34
of a paper called for, and objected to, to be decided by the Senate	14	36
<i>Reconsideration</i> , motion for, may be made by one of the majority	20	37
or by a member of the side that prevailed	44	44
motion for, must be made within two days after vote	20	37
motion for, must be made before the subject matter is out of possession of Senate	20	37
of a question requiring the affirmative vote of two-thirds, to be determined by a majority	44	44
<i>Record</i> , Executive, extracts from, prohibited	42	43
<i>Reference</i> of petitions, &c. how made	24	37
<i>Reports</i> of standing committees, when received	24	37
of committees, to lie one day	26	38
<i>Reporters</i> placed on the floor	47	44

RULES OF THE SENATE.

xix

	No.	Pa.
Resolutions , requiring approbation of the President to amend constitution, and grant money, to be treated as bills	26	38
other to lie one day	26	38
on third reading, amended only by consent	29	39
engrossed, recommitted, and reported, to be again read second time	29	39
orders, votes, &c. requiring the President's approbation, shall be signed and presented as in case of bills. [<i>See Bills.</i>] (joint rule)	10	47
passed one House and lost in the other, notice to be given (joint rule)	12	48
not to be presented to the President on last day of the session (joint rule)	17	48
Secrecy enjoined on confidential communications	38	43
enjoined on remarks on persons nominated	39	43
enjoined on treaties	38	43
Secretary to endorse bills passed, &c.	45	44
to take the decision of the Vice-President when the Senate is equally divided	21	37
to receive from committee, and enter eng. bills	33	40
to furnish the President with transcripts of executive journal	42	43
reporters on the floor under direction of the	47	44
to be chosen on second Monday of first session of every congress	49	45
to attend and take minutes when Senate is convened to any other place	36	41
to make returns on nominations from day to day	42	43
to return or deliver no paper, except original treaties, without order of Senate	42	43
to furnish no extract from executive journal without special order	42	43
to convey messages to H. of Representatives	45	44
Senate , proceedings of, when a number less than a quorum shall have assembled	8	35
proceedings of, in <i>quasi</i> committee to be entered concisely	32	40
ceremonial proceedings when met by the President of the United States at any other place than the Senate chamber	36	41

	No.	Pa.
<i>Senate</i> , relating to the executive proceedings of	36-40	41-43
who shall be admitted when engaged in executive confidential business	40	43
the proceedings of, to be recorded separately	41	43
transcripts and extracts from Executive records, in what cases furnished	42	43
votes of, to be entered on journal	32	40
shall be cleared of all persons except their officers, when acting on Executive business	40	43
officers of, when they shall be elected	49	45
messages to and from (joint rules)	2-3	46
<i>Speaking</i> , among the members, prohibited during debate	2	34
more than twice in one day on the same subject, prohibited	4	34
<i>Spirits</i> , not to be brought within or about the capitol (joint rule)	19	49
<i>Time</i> , longest, first put	13	36
<i>Treaties</i> , proceedings on	37	42
to be kept secret, until injunction be removed	38	43
<i>Unfinished business</i> , has preference in special orders	15	36
<i>Vice-President</i> , or <i>President pro tempore</i> , may appoint a chairman	23	37
<i>Vote</i> , every, to be entered on the journal	32	40
no member allowed to, after decision is announced	17	36
<i>Words</i> , exceptionable, shall be taken down, when a call to order is made by a Senator	7	34
<i>Yeas and nays</i> , to be called alphabetically	16	36
may be required by one-fifth	16	36
to be taken without debate	16	36
after being taken no member allowed to enter his vote	17	36

INDEX

TO THE RULES AND ORDERS OF THE HOUSE OF REPRESENTATIVES, AND TO THE JOINT RULES.

	Rule.	Pa.
<i>Absent members</i> , their attendance may be compelled by fifteen members	50	61
<i>Absent</i> , no member allowed to be, unless on leave	53	61
<i>Absentees</i> at a call, proceedings against	54-55	61
<i>Acts and addresses</i> , signed by the Speaker	11	51
<i>Address to the President</i> , how to be presented (joint rule)	11	48
<i>Adhere</i> , effect of a vote in the two Houses to (joint rule)	15	48
<i>Adjourn</i> , motion to, always in order, but not to be debated	36	58
hour to be entered	37	58
<i>Amend</i> , order of motion to	34	58
<i>Amendment</i> not to be admitted, if on a subject different from that under consideration	43	59
<i>Amendments</i> to engrossed bills, by way of <i>rider</i> , not permitted	104	74
to engrossed bills, to be kept on separate paper	108	75
to original motions, in committee of the whole	109	75
to bills and resolutions, cannot be made by adding other bills or resolutions	43	59
to rules, proposition of	116	76
to reports in committee of the whole	110	75
to bills on which the two Houses disagree, conference upon (joint rule)	1	46
of Senate, to bills, when considered	18	54
<i>Appeals</i> , how made and debated	2	49
proceedings in case of	22	55

	Rule.	Pa.
<i>Appropriation Bills</i> to be reported within 30 days	61	64
to have preference in order	62	65
appropriations not authorised by law cannot be made in	63	65
<i>Appropriation for treaties</i> not to be included in bills making appropriations for other objects	60	63
<i>Appropriations</i> to be first discussed in committee of the whole	114	76
<i>Ballot</i> for committees	7	51
in other cases	8	51
<i>Ballots</i> , blank, not counted	8	51
no person to look on when tellers are counting	27	56
<i>Bar</i> , no member to vote unless within the	28-29	57
<i>Bills, on the table</i> , when to be taken up and disposed of	18	54
rejected, if enacting words be stricken out	34	58
cannot be amended by adding other bills	43	59
proceedings on <i>leave</i> to introduce	97	73
<i>private</i> , to have preference on Fridays and Saturdays	20	55
how to be introduced or reported	97	73
<i>making appropriations</i> , to be reported within 30 days	61	64
to have preference in orders	62	65
appropriations not authorised by law excluded	63	65
the several readings of	98	73
if opposed on first reading, question to reject to be put, &c.	99	74
how to be disposed of on second reading	100	74
not more than three to be committed to the same committee of the whole	101	74
may be recommitted at any time before passage	102	74
to be engrossed in a fair round hand	103	79
amendments of Senate, when considered	18	54
engrossed, when to be read and disposed of	18	54
not to be amended on a third reading by <i> rider</i>	104	74
when passed to be certified by the Clerk	105	75
<i>Bills</i> , [in Committee of the Whole] how to be taken up; not to be interlined; amendments to, how to be kept and reported;		

HOUSE OF REPRESENTATIVES.

xxiii

	Rule.	Pa.
and, after report, may be debated and amended	108	75
on their passage to be on paper (joint rule)	5	46
to be enrolled on parchment after passing the two Houses (joint rule)	6	46
<i>See Engrossed Bills.</i>		
<i>passed one House and lost in the other</i> , notice to be given of (joint rule)	12	48
<i>passed one House and lost in the other</i> , how they may be renewed (joint rule)	13	48
<i>when sent from one House to the other</i> , to be accompanied by the papers on which they are founded (joint rule)	14	48
not to be sent from one House to the other for concurrence on the three last days of the session (joint rule)	16	48
not to be presented to the President on the last day of a session (joint rule)	17	48
joint rule relative to printing of	18	48
<i>Blanks</i> , rule respecting the filling of	111	75
<i>Blank ballots</i> , not to be counted	8	51
<i>Business</i> , unfinished at first, to be resumed at second session of Congress	15	52
<i>Business on the table</i> , when to be taken up and disposed of	18	54
daily order of	16-17-18	53
order of, changed or postponed	116	76
no debate on priority of	96	73
<i>private</i> , to have preference on Fridays or Saturdays	20	55
on Speaker's table, list of	124	78
mode of disposing of	18	54
<i>Calls on Departments</i> for information, rule relating to	49	60
<i>Call of the House</i> , names called alphabetically	51	61
rules relative to a	38-54-55	58-61
<i>Capitol</i> , unappropriated rooms in	125	78
no spirits to be brought within or about (joint rule)	19	49

	Rule.	Pg.
<i>Clerk</i> to cause resolutions to be delivered to the President, &c.	49	60
to take an oath to act faithfully, and tenure of appointment, &c.	90	72
to make a list of reports to be made by public officers to Congress	91	72
to forward the journals to the Governors of the States	92	72
to make weekly a list of business on Speaker's table	124	78
to cause Journal to be completed and distributed	121	77
to furnish Members with bound Documents	123	77
to cause the laws to be Indexed	126	76
to note questions of order	93	72
to attest legal acts signed by Speaker	11	51
to retain certain books in the office library	122	77
<i>Commit or Amend</i> , order of motions to	34	58
<i>Committees</i> , how to be appointed	7	51
order in which they shall be called for reports	17	53
a member may, in a certain case, be excused from serving on	52	61
precedence of, in motions for reference	53	58
appointment of standing	58	62
duties of, viz. Of Elections	59	63
Of Ways and Means	60-61	63
Of Claims	64	65
On Commerce	65	65
On Public Lands	66	65
On the Post Office and Post Roads	67	66
For the District of Columbia	68	66
On the Judiciary	69	66
On Revolutionary Claims	70	66
On Public Expenditures	71	67
On Private Land Claims	72	67
On Military Affairs	73	67
On the Militia	74	67
On Naval Affairs	75	68
On Foreign Affairs	76	68
On the Territories	77	68

HOUSE OF REPRESENTATIVES.

xxv

	Rule.	Pa.
<i>Committees, duties of, viz. On Revolutionary Pen-</i>		
<i>sions</i>	78	68
<i>On Invalid Pensions</i>	79	68
<i>On Roads and Canals</i>	80	69
<i>On Patents</i>	81	69
<i>duties of, viz. on public buildings</i>	82	69
<i>on revisal and unfinished business</i>	83	69
<i>on accounts</i>	84	69
<i>on mileage</i>	85	70
<i>Committees on expenditures, appointment and du-</i>		
<i>ties of the six</i>	86-87	70
<i>Committees Standing, may report by bill</i>	88	72
<i>not to sit during session of House</i>	89	72
<i>Committee of the Whole on the Union, a standing</i>		
<i>order of the day</i>	106	75
<i>Committee of the Whole, how formed</i>	107	75
<i>how to proceed in cases of bills</i>	108	75
<i>how to report amendments to original motions</i>	109	75
<i>rules of the House to be observed in</i>	115	76
<i>must first entertain all motions for laying or</i>		
<i>increasing taxes</i>	112-113	76
<i>appropriations must be first discussed in</i>	114	76
<i>Committee on Enrolled Bills, appointment and</i>		
<i>duties of (joint rule)</i>	7	47
<i>to report at any time</i>	117	76
<i>Commitment of motions and reports to be at the</i>		
<i>pleasure of the House</i>	42	59
<i>when different committees are proposed their</i>		
<i>order</i>	35	58
<i>Conference on disagreeing votes of the two Houses,</i>		
<i>rule respecting (joint rule)</i>	1	46
<i>Confidential communications or proceedings, rules</i>		
<i>upon the subject of</i>	94	72
<i>Consideration, questions of</i>	5	50
<i>Conversation, private, not to be entertained while</i>		
<i>a member is speaking</i>	27	56
<i>Debate, provisions for the preservation of order and</i>		
<i>decorum in</i>	21-22-23	55
<i>on appeals, limited nature of</i>	2	49
<i>on appeals in calls to order, prohibited</i>	22	55

	Rule.	Pt.
<i>Debate</i> prohibited on motions to adjourn	} 36	58
to lie on the table		
prohibited to speak more than once or twice	25	56
prohibited on petitions and other papers on day of presentation	48	60
prohibited on priority of business	96	73
to be precluded by the previous question	39	59
<i>Departments</i> , calls for information from	49	66
<i>Division of Questions</i> , when and how they may be allowed	41	59
<i>Division of the House</i> , how made and decided	4	50
<i>Divine service</i> not to be performed in the Hall, unless by consent of the Speaker	119	77
<i>Disorder of the Gallery</i> , remedy for	12	53
<i>Documents</i> , members to be furnished with an extra set	123	77
rule respecting printing extra numbers	49	60
<i>Doorkeeper</i> to be sworn to secrecy	95	73
<i>Duties or taxes</i> , rules to be observed respecting the imposition or increase of	112-113	76
<i>Elections</i> , how to be conducted	8	51
<i>Enacting words</i> , if stricken out, to be considered as a rejection of bill, &c.	34	58
<i>Engrossment</i> to be in a fair round hand	103	74
<i>Engrossed Bills</i> not to be amended by riders while on their passage between the two houses (See Bills)	104	74
<i>Enrolled Bills</i> , committee on may report at any time	117	76
to be examined by the committee,	} (joint rule)	7 47
provision for the appointment of the committee on		
to be signed by the presiding officers of the two Houses (joint rule)	8	47
how to be presented to the President and the time to be noted [joint rule]	9.	47
not to be presented to the President on last day of session [joint rule]	17	48
<i>Executive Departments</i> , rules to be observed in calling for information from Heads of	49	60

HOUSE OF REPRESENTATIVES. xxvii

	Rule.	Pa.
<i>Executive communications</i> , when to be read	18	54
<i>Excused from voting</i> , rule relating to being	30	51
<i>Excused from serving on a Committee</i> , a member may be	52	61
<i>Fees</i> in cases of calls of the House	55	61
of Sergeant-at-arms	57	62
<i>Galleries</i> may be cleared in cases of disorder	12	52
<i>Hall</i> to be under the direction of the Speaker	6	50
persons who may be admitted within the	13	52
not to be used in the performance of divine		
service, unless by consent of the Speaker	119	77
<i>Hats off</i> during session of House	27	56
<i>Heads of Departments</i> , calls for information from	49	60
<i>Interested</i> , members not to vote when	28	57
<i>Indefinitely</i> , questions not to be resumed which are postponed	40	59
<i>Information</i> , calls on President and Departments for	49	60
<i>Insert and Strike out</i> , questions indivisible	41	59
<i>Index to Laws</i> , to be made	126	78
<i>Jeffersons Manual</i> to govern in certain cases	118	76
<i>Joint Resolutions</i> , or propositions requiring the consent of the Senate, to be laid on the table one day	47	60
signed by the Speaker	11	51
<i>Journal</i> , reading of	1	49
to be examined by the Speaker	6	50
to be printed and distributed within thirty days after the adjournment	121	77
<i>Laws</i> to be signed by the Speaker	11	51
Index to be made	126	78
<i>Lie on the table</i> , precedence of a motion to	34	58
no debate allowed on a motion to	36	58
<i>Lie on table one day</i> , all matters requiring the concurrence of the Senate to	47	60
all resolutions calling on Executive officers for information shall	49	60
<i>Library of Clerk's Office</i> , books to be retained	122	77
<i>Lobby</i> may be cleared in cases of disorder	12	52
<i>Manual, Jefferson's</i> , to govern in certain cases	118	76

xxviii INDEX TO THE RULES OF THE

<i>Memorials</i> , when to be presented	Rule Pt.	16 53	to
rules to be observed on the presentation of		48 60	to
<i>Members</i> not to vote, when interested		28 57	
to be furnished with extra set of documents		123 77	P
to sit uncovered		27 56	P
their names to be called alphabetically		51 61	P
<i>Messages between the two Houses</i> , how to be an-			F
nounced and delivered [joint rule]		2-3 46	
by whom to be sent [joint rule]		4 46	
<i>Messages from Senate</i> , when considered		18 54	
<i>Messages from the President</i> , when read		18 54	
<i>Mileage</i> , duty of committee on		85 70	
<i>Motions</i> to be stated by the Speaker, or read by the			
Clerk		31 57	
if desired, shall be reduced to writing		82 57	
when to be considered as in possession of the			
House		33 57	
precedence and order of certain		34-35 58	
may be committed at pleasure		42 59	
when they may be withdrawn		33 57	
<i>Nomination</i> , cases in which it shall be necessary		10 51	
<i>Order</i> , proceedings in cases of calls to		22-23 55	
Speaker to decide questions of		2 49	
Speaker to make calls to		22 55	
Clerk to note questions of		93 72	
questions of, arising after previous question,			
no debate		39 59	
<i>Order of business</i> of the session		15 52	
of the day		16-17-18 53	
postponed or changed		116 76	
<i>Order of calling</i> for petitions		16 53	
reports of committees		17 53	
<i>Orders of the day</i> , when to be called		18 54	
may be moved pending consideration or dis-			
cussion of reports and resolutions		18 54	
unfinished business to have precedence in		46 60	
<i>Petitions</i> , when they may be presented		16 53	
rules to be observed on the presentation of		48 60	
<i>Personality</i> in debate to be avoided		21 55	
<i>Postmaster General</i> , calls for information from		43 60	

HOUSE OF REPRESENTATIVES. xxix

	Rule.	Pa.
<i>Postponed indefinitely</i> , effect of question which is	40	59
<i>Postpone</i> , to day certain, order of motion	34	58
or change order of business	116	76
<i>Precedence</i> , or } to be decided without de-		
<i>Priority of business</i> } bate	96	73
<i>Precedence</i> of motions	34-35	58
<i>President</i> , rules to be observed in calling for infor-		
mation from the	49	60
manner of presenting bills and resolutions to		
the [joint rule]	9	47
manner of presenting joint addresses to the		
[joint rule]	11	48
<i>Printing of journals</i> to be completed within 30		
days after an adjournment	121	77
<i>Printing of bills</i> , joint rule relating to	18	54
motions for extra numbers to lie one day	49	60
<i>Previous question</i> , order of motion for	34	58
rules relating to the	38-39	58
<i>Private business</i> to have preference on Fridays		
and Saturdays	20	55
<i>Privileged characters</i> , to come within the hall,		
named	13	52
<i>Questions</i> , manner of putting	4	50
decorum to be observed during the putting of	27	56
may be divided, and the manner of dividing	41	59
to be propounded in the order in which they		
are moved	111	75
<i>Quorum</i> , fifteen members may compel the attend-		
ance of a	50	61
<i>Reading a paper</i> , if objected to, rule respecting		
the	45	60
<i>Reconsider</i> , rule respecting motions to	44	59
<i>Reference</i> , order and precedence of motions of	35	58
of motions to be at the pleasure of the house	42	59
<i>Reports</i> may be committed at pleasure	42	59
of committees, when to be made	17	53
to be made to Congress, Clerk to make a		
list of	91	72
<i>Resolutions</i> , when they may be submitted, &c.	17	53
cannot be amended by adding other resolutions	43	58

	Rule.	Pa.
requiring assent of the Senate, to be laid on the table one day before acting on, &c.	47	60
calling on Executive officers for information, to lie one day	49	60
orders, votes, &c. requiring the President's approbation, shall be signed and presented as in case of bills [See <i>Bills</i> .] joint rule	10	47
passed one House and lost in the other, notice to be given [joint rule]	13	48
not to be presented to the President on last day of the session [joint rule]	17	48
<i>Riders</i> , engrossed bills not to be amended by	104	74
<i>Rooms</i> , Speaker to dispose of unappropriated	125	78
<i>Rules</i> , how to be amended, rescinded, or suspended	116	75
<i>Secrecy</i> , rule relating to	94	72
<i>Senate</i> , all orders to be laid on the table one day, which require the assent of the	47	60
bills and resolutions, when to be read	18	54
consider messages from	18	54
messages to and from [joint rules]	2-3	46
<i>Sergeant-at-arms</i> to be appointed, and duties of the	56	62
fees of the	57	62
to be sworn to secrecy	95	73
<i>Speaker</i> to take the chair at the hour of meeting	1	49
to have preference in speaking to order	2	49
to rise to put a question	3	50
to decide questions of order	2	49
to examine the journal	6	50
to have direction over the Hall	6	50
to name member who is to speak	24	56
to call members to order	22	55
to have direction over unappropriated rooms	125	78
may substitute a member in his place	6	50
cases in which he shall or may vote	9	51
to sign acts, addresses, writs, subpoenas, &c.	11	51
divine service not to be performed in the Hall, unless by consent of the	119	77
<i>Speaker's table</i> , mode of disposing of business on	18	54

HOUSE OF REPRESENTATIVES. xxxí

	Rule. Pa.	
<i>Speaking</i> , rules to be observed in the House	21 to 26	55
in Committee of the Whole	115	76
private discourse not to be entertained, nor is any person to pass between the chair and a member who is	27	58
<i>Speak</i> , Speaker to designate the member who is first to	24	56
no member to speak more than once or twice	25	56
<i>Spirits</i> , not to be brought within or about the Capitol [joint rule]	19	49
<i>Stenographers</i> may be admitted on the floor, &c.	14	52
<i>Strike out and Insert</i> , rules respecting motions to	41	59
<i>Substitute</i> for a proposition, rule respecting a	43	59
<i>Summons</i> , to be signed by Speaker	11	51
<i>Suspension</i> of rule	116	76
<i>Taxes or duties</i> , respecting the imposition of	112-113	76
<i>Tellers</i> may be appointed to count, in certain cases	4	50
<i>Uncovered</i> , members to sit	27	56
<i>Unfinished business</i> to have precedence, &c.	46	60
<i>Vote</i> , no member to vote when interested, or with- out the bar	28	57
every member present shall vote unless excused	30	57
<i>Voting</i> , manner of	4	50
who are to be excluded from	28-29	57
if a member requests to vote, he is to be in- terrogated by Speaker	28	57
<i>Witnesses</i> , how to be subpoenaed	4	50
rule for compensating	120	77
<i>Withdrawal</i> of motions, rule respecting the	33	57
<i>Writs, subpoenas, &c.</i> to be signed by the Speak- er, &c.	11	51
<i>Writing</i> , motions to be reduced to, if desired	32	57
<i>Words excepted to</i> , to be reduced to writing	23	57
<i>Yeas and Nays</i> , when calling, no one to go near the table	27	56
to be taken alphabetically	51	61



INDEX TO THE MANUAL.

	<i>Page</i>
<i>Absence</i> , not allowed without leave	103
provision in cases of	103
<i>Address</i> , how presented	105
<i>Adhere</i> , question discussed	161
effect of a vote to	176
should be two conferences before vote to	176
<i>Adjournment</i> , motion for, cannot be amended	188
rules and regulations in respect to	187
a question is removed by	160
of the session, all unfinished business falls	174
of the session, modes and manner discussed	188
to be declared by the Speaker	188
for more than three days, by concurrent votes	188
provision for disagreement respecting	188
effect of, on business depending,	189
<i>Amendment to Bills</i> .—See also <i>Bills</i> .	134
proceedings in relation to	127, 131
how to be reported	131
fall on recommitment	133
in the third degree not admissible	148, 178
discussion of the nature and coherence of	153, 157
Speaker cannot refuse to receive because inconsistent	153
may totally change the subject	154
if House choose to strike out a paragraph it cannot be amended	154
a new bill may be engrafted on another	154
mode of proceeding on amendments. between the Houses	175, 178
made in Committee of the Whole, falls by a reference	136
proposed, inconsistent with one adopted, may be put	153

	Page
<i>Amendment</i> , may be amended <i>prior</i> to adoption but not after	154
(proposed,) by <i>striking out</i> , and lost, the para- graph proposed to be stricken out cannot be amended	154
not identical, or equivalent to one lost, may be pro- posed	156
by insertion, how far liable to further amendment	156
<i>Apportionment</i> of representatives, table of	100
<i>Appropriation</i> , made by resolution	126
<i>Arrest</i> , definition of privilege from	90, 95
terminates with the session	423
<i>Assault and Affrays</i> in the House, how settled	119
<i>Assent</i> to bills, by the executive, regulations respecting	184
<i>Ayes and Noes</i> , how questions are determined by	167
no member to vote if not present	179
<i>Bills</i> , engrossed, must not be looked into	115
to be fairly written or Speaker may refuse them	127
amendments fall, if recommitted	134
a particular clause may be recommitted	134
amendments, how proceeded with	129, 134-5
amendments fall if referred to committee	136
proceedings on second reading	127
time for attacking or opposing	139, 165
what constitutes possession	141
one bill may be engrafted on another	154, 157
one House may pass with blanks and be filled in the other	157
on third reading, forms observed	163
on third reading, may be committed	164
on third reading, amended by <i>riders</i>	164
on third reading, blanks filled	165
cannot be altered after passage	165
new, concerning their introduction	123
to receive three readings, &c.	126
how brought in on notice and leave	127
forms in introducing	127
not amended at first reading	127
proceedings on second reading	127, 138-9
how and to whom committed	128

INDEX TO THE MANUAL.

xxxv

	Page
<i>Bills</i> , shall be read twice before commitment	129
not to be referred to avowed opponents	128
referred, may be delivered to any of the Committee	129
amendments between the houses, mode of proceeding	175
by whom to be taken from house to house	181
may be specially commended to notice of the other house	182
rejected, course to be pursued	183
if one house neglects a bill, the other may remind of it	183
how to be enrolled, signed and presented to President	184
amendments to, cannot be receded from or insisted on, by the amending house, with a further amendment	176
amendment to an amendment has precedence over a motion to agree or disagree	178
amendments to amendments, how far admissible	178
proceedings upon in Committee of the Whole, &c.	136
titles, when made	172
reconsideration, when and how the question may be moved	172, 194
reconsideration, at what time to be moved	172
reconsideration, effect of a vote for (rejected) relating to their being brought in during the same session	173
originating in one house, rejected in the other, may be renewed in the rejecting house	174
expedients for remedying omissions in	174
mode of proceeding, when founded on facts requiring explanation	175
effect of a vote to insist or adhere	176
conferences upon, at what stages, and by whom asked	178
papers relating to, to be left with the conferees of the House <i>acceding</i> to the conference	179
enrolling	184
proceedings when disapproved	184
not returned in ten days, to be laws, unless an adjournment intervene	184

	Page
<i>Blanks</i> , longest time, largest sum, first put	148
bills may be passed with, and be filled in other House	157
may be filled in engrossed bills	165
construction of the rule for filling	156
<i>Breach of Peace</i> , mode of proceeding on charge of	95
<i>Bribery</i> , (Randall and Whitney's case) breach of privilege	91
<i>Business</i> , order of, in Senate,	111
a settled order in its arrangement useful	111
<i>Call of the House</i> , proceedings in case of	102
<i>Challenge</i> , breach of privilege	91
<i>Chairman</i> of Committee elected	105
of Committee of the Whole, may be elected	108
<i>Change of Vote</i> , right to	171
<i>Clerk</i> , puts questions before election of Speaker	104
to read standing	138
numbers the sections	158
may correct his errors	182
<i>Committees</i> , cannot inquire concerning their members	106
must not sit when house is in session	106
may elect chairman	106
manner of proceeding in	130
cannot reconsider or alter their own votes	133
how they report amendments	133
cannot sit in the recess after the Congress has expired	189
a member <i>elect</i> , though not returned, may be appointed on	94
standing	105
forms and proceedings in	106, 130
joint, how they act	106
who shall compose	128
how appointed in Senate	129
time and place of meeting	129
majority of, to constitute a quorum	130
members of the House may be present at their sittings	130
their power over a bill	130
have entire control of a report recommitted	124

	Page
<i>Committees</i> , dissolved by a report	138
how revived	133
may be discharged from instructions	174
when they may sit during recess	189
effect of a reference to, when a bill has been amend- ed in committee of the whole	136
<i>Committee of the Whole</i> , great matters usually referred to	107
may elect their chairman	108
Speaker may resume chair if great disorder	108
manner of doing business in, in Senate	135
proceedings in	107, 130, 135
irregularly dissolved	109
cannot adjourn	109
report proceedings	109
subjects which have passed through, may be refer- red to special committees	135
particulars which attach to	136
<i>Communications</i> , confidential, to be kept secret	191
<i>Common fame</i> , a ground for proceeding	116
<i>Conferences</i> , common to have two, before vote to adhere	176
cannot alter any thing on which the Houses have agreed	176
discussion of the nature and occasion of	178
report of cannot be amended or altered	179
papers left with conferees of House agreeing to	179
when, by which House, and at what stage to be asked	178
<i>Co-existing questions</i> discussed	160
<i>Counsel</i> may be heard on private bills and law points	111
<i>Count of the House</i> may be called	102
(See <i>Division of House</i> .)	
<i>Covered</i> , when members are not to be	122
<i>Debate</i> , no one to speak impertinently, superfluously, or tediously	117
not cut off till both sides of the question be put	162
forms and proprieties to be observed in	115, 117
the Speaker not allowed to engage in, except on points of order	116
proceedings of the house not to be censured	117

	Page
<i>Debate</i> , personalities to be prohibited	117
motives not to be arraigned	117
violation of order in, to be suppressed by the speaker	117, 120
disorderly words not to be noticed until the member has finished	119
disorderly words, when taken down	119
proceedings of the other house not to be noticed in members concerned or implicated by the subject of, ought to withdraw	120
<i>Decorum</i> , points of (See <i>Debate</i>)	121
<i>Defamatory publications</i> , breach of privilege	120
<i>Disorder in Committee of the Whole</i> , Speaker to resume chair, if great	91
members creating, proceedings	109
<i>Disorderly words</i> , how and when taken down	118
<i>Division of the House</i> , practice in ascertaining of questions, discussed	119
<i>Doors</i> , rule respecting their being closed	166
ought not to be shut, to be kept by persons appointed	158
<i>Duel</i> , challenge to, breach of privilege	122
<i>Elections</i> , time, place, and manner of holding of members to be judged by each house	91
<i>Errors</i> , cannot be corrected in Committee of the Whole	97
various modes of correcting	97
Clerk may correct his own	173
<i>Equivalent questions</i> , discussed	182
<i>Felony</i> , mode of proceeding on charge of	161
<i>Gallery</i> , clearing of	95
Committee of the Whole cannot punish for disorder in	122
<i>Hats</i> , when to be taken off	137
<i>House</i> , division of, how ascertained of Representatives.—See <i>Representatives</i> .	122
<i>Impeachment</i> , sketch of the law of Parliament respecting	166
<i>Inquiry</i> , or accusation, common fame a ground for	195
<i>Innist</i> , question discussed	110
effect of vote to	161, 176

INDEX TO THE MANUAL.

xxxix

	Page
<i>Journal</i> , shall be kept by each House	185
of each house to be published	185
shall show every vote	185
to contain a brief statement of every petition, paper, &c. presented	185
titles of bills and parts affected by amendments, to be inserted on	185
what questions shall be entered on	186
a record, in law	187
subject to examination	187
directions as to making up	186
either House may notice and inspect Journal of the other	187
how it may be amended	187
<i>ling</i> , not to be spoken of irreverently, &c.	120
<i>largest sum</i> , question first put	148
<i>lie on table</i> , call up at any time, matters that	144
<i>longest time</i> , question first put	148
<i>majority</i> , decides on general questions	171
<i>members</i> and officers of one House not amenable to the other	121
must vote when question is put	169
not to vote unless present when question was put	170
<i>Memorial</i> .—See <i>Petition</i> .	
<i>Messages</i> , cannot be received in Committee	108
nature of	181
Executive, to be made to both Houses at the same time	183
when received	181
forms in receiving	182
errors in their delivery may be corrected	183
bills not acted on, the subjects of	183
<i>Minority</i> , protected by adherence to Rules	86
<i>Mistakes</i> .—See <i>Errors</i> .	
<i>Motion</i> , not to be put or debated until seconded	125
to be put in writing if desired	125
to be read for information	125
to adjourn, not in order when a member has the floor	125
<i>privileged</i> , what shall be	125

	Page
<i>Business removed from before House by adjournment, &c.</i>	100
<i>See Questions.</i>	
<i>Newspaper publications, defamatory, breach of privilege</i>	91
<i>Officers, of either House, forms of nomination or election</i>	103
<i>of one House not amenable to the other</i>	120
<i>Order, Mr., his opinion of importance of Rules</i>	86
<i>Order violated by Speaker, by not putting question</i>	95
<i>"instances make" order</i>	111
<i>respecting papers.—See Papers.</i>	111
<i>in debate.—See Debate.</i>	113
<i>questions of, may be adjourned</i>	122
<i>decision of Speaker on points of, may be controlled</i>	122
<i>a member may insist on the execution of a subsisting</i>	123
<i>Committee of the Whole cannot punish breach of</i>	137
<i>if point arise while question is putting, Speaker to</i>	
<i>decide promptly</i>	171
<i>of business, propriety of</i>	111
<i>for the Senate</i>	112
<i>of the day, how, and when to be called up</i>	121
<i>may be discharged at any time</i>	123
<i>cannot be moved while member is speaking</i>	125
<i>take precedence of all questions</i>	150
<i>of the House, determined with the session</i>	123
<i>question of, to supersede a question depending</i>	166
<i>and Resolution, distinction between</i>	126
<i>special, rules upon subject of</i>	123, 142
<i>Opposition to Bill, proper time to make</i>	139, 165
<i>Papers and Journals, not to be removed from Clerk</i>	114
<i>rules respecting their preservation</i>	114
<i>reading of, how far they may be called for</i>	140
<i>referred, usually read by title</i>	141
<i>to be left with conferees of the House acceding to</i>	
<i>conference</i>	179
<i>Parliament, each House of, may adjourn independent-</i>	
<i>ly of the other</i>	187
<i>Petition and Remonstrance, distinction</i>	124
<i>to be presented by a member, its form, &c.</i>	125
<i>to be subscribed or written by petitioner</i>	124
<i>must go to committee through the House</i>	105
<i>question as to receiving</i>	125

INDEX TO THE MANUAL.

xR

	Page
<i>Postpone indefinitely</i> , effect of a question to,	143
<i>beyond session</i> , effect of	143
<i>Preamble</i> , last considered	132
<i>President of the Senate</i> , provided by the Constitution	103
may appoint chairman	104
<i>pro tempore</i> , to be chosen in the absence of the	
Vice President	104
at what time his office shall determine	104
of the United States, forms in presenting bills to	184
<i>Previous question</i> , its intention and effect	150
can an amendment be moved to M. Q.	151
cannot be put in Committee	109
effect of	137, 143
discussed	150
<i>Priority and Precedence of motions</i> , discussion of	141
<i>Privilege of Parliament</i> has gradually increased	83, 88
of members of Parliament	88, 95
of Senators and Representatives	89, 94
of Senators, constructive extent	91, 95
of the two Houses, cases of alleged breach of	89 to 94
of members commence by virtue of election	94
of members must be ascertained at the peril of the	
party violating	94
of members, the privilege of the House	94
a member cannot waive breach of	95
is violated by Speaker not putting a question which	
is in order	95
of one House in relation to the other, or in relation	
to a co-ordinate branch of the Government	96, 121
breach of, party summoned, or sent for	94
breach of, by members, punishable by House only	95
breach of, by the King or Executive	96
members of one House cannot be summoned by the	
other	111
neither House can exercise authority over mem-	
bers or officers of the other	120
of a member, where he is charged or interested, &c.	121
question of, takes precedence of all	150
<i>Qualification of Senators</i>	98
<i>Quarrel</i> , in Committee must be settled in House	108

	Page
<i>Quarrel</i> , members must declare they will not prosecute	119
question of privilege arising from, has precedence	150
<i>Questions</i> , general rule for putting	142, 165
the priority of certain, considered	142
removed from before House by adjournment	160
may be debated between the count of affirmative and negative	162
manner of putting	165
must not speak, or move about when putting	170
must be decided promptly, if difficulty arise	171
one House cannot question the other	183
<i>privileged</i> , what shall be	142, 150
in filling blanks	149, 154
in reference to committees	148
in amending amendment, and agree or disagree	177
motion to amend has precedence over motion to strike out	150
<i>of order</i> , (incidental,) how far it shall supersede any other	150
<i>division of</i> , now made	158
what are divisible	158
when divided, each point open to debate and amendment	159
(<i>co-existing</i>), what suspends, and what removes from the House, an existing question	159
<i>equivalent</i> , what is considered	161
determined by ayes and noes	168
to be resumed in <i>statu quo</i> , when suspended by the want of a quorum	171
<i>Quorum</i> , only shall do business	102
what number shall be a	102
how the attendance of, may be compelled	102
any member may desire a count, for the purpose of ascertaining	102, 213
not present suspends the question	102, 171
<i>Randall and Whitney</i> , reference to case, breach of privilege	91
<i>Reading of papers</i> , right to require	140
question on, first put	150
<i>a speech</i> , is not a right	141
<i>a report</i> of one House, not of right in the other	141

INDEX TO THE MANUAL.

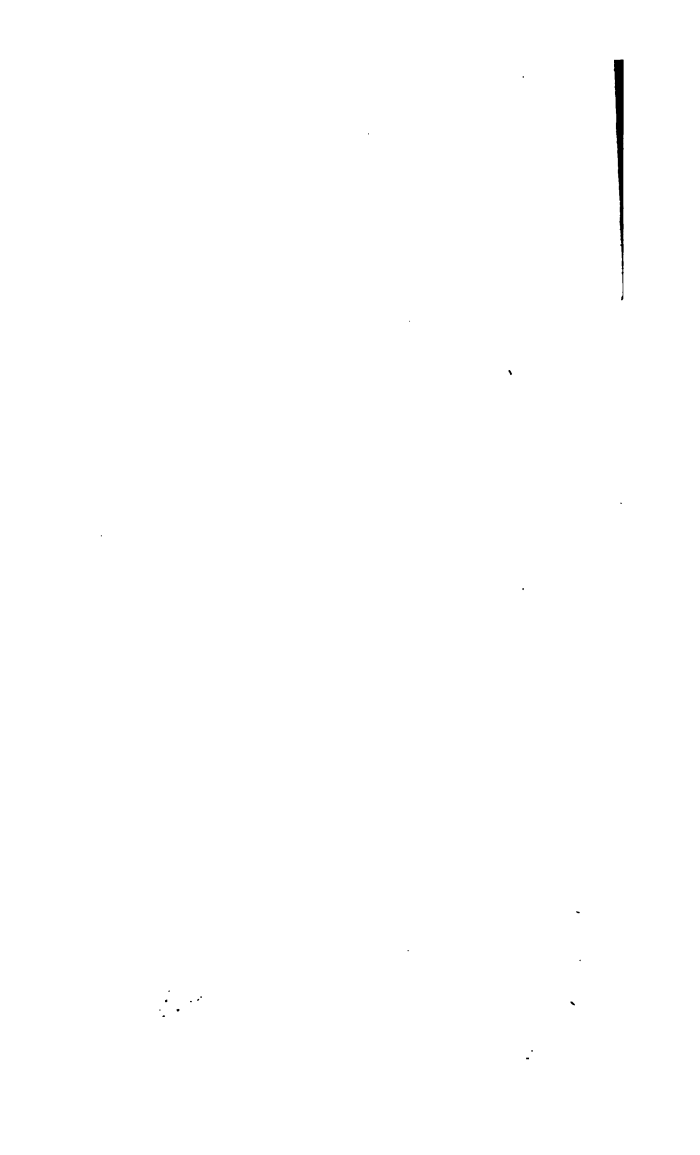
xliv

Page

<i>Recede</i> , question to, discussed	161
effect of a vote to	174, 176
<i>Recommitment</i> , effect of	134
<i>Reconsideration</i> of bills, orders, instructions, &c.	172, 174
of questions requiring two-thirds, by whom may be moved	194
<i>Remonstrance and petition</i> , distinction	124
<i>Report of Committee</i> , how to proceed in House	134
<i>Representatives</i> , apportionment of, since 1789	100
qualifications of	98
<i>House of</i> , of whom composed	98
shall choose their Speaker and other officers	104
powers of, in relation to its rules, and the conduct of members	114
<i>Resolution, and Order</i> , distinction	126
to pay money, in order	126
when to be presented for approval	185
<i>Riders</i> , amend engrossed bills by	161, 164
<i>Rules</i> , an adherence to, important	86
<i>Rules and orders of each House</i> , to what cases they shall apply	122
<i>Sections</i> , numbered by Clerk	158
<i>Senate</i> , of whom composed, and how classed	89
the Vice President to be the President	103
shall choose their officers, &c.	103
power of, in relation to rules, and the conduct of members	104
equal division to be determined by the vote of the Vice President	166
session of, what constitutes	188
<i>Speaker</i> , manner of choosing	104
absence of, from sickness, another chosen,	104
violates order by not putting question	95
Clerk puts question, before election of	104
may be removed at will of the House	105
not to speak unless to order	117
reads sitting, rises to put question	116
cannot refuse an amendment, inconsistent	153
to decide point of order that arises in putting ques- tion promptly, and may ask advice of old mem- bers	171

	Page
<i>Strike out</i> , paragraph may be perfected before question to	154
<i>Strike out and insert</i> , discussed	153 to 156
<i>Sum</i> , largest, first put	149
<i>Tellers</i> , to count sides of questions	168
their errors rectified	168
<i>Time</i> , longest first put	149
<i>Title</i> , to be on back	140
when to be made or amended	172
<i>Transposing</i> of sections, rule respecting	157
<i>Treason</i> , mode of proceeding on charge of	95
<i>Treaties</i> may be made by the President and Senate	191
shall be kept secret until injunction removed	191
are legislative acts	191
extent of the power to make	193
may be rescinded by an act of the legislature	193
papers to be communicated with	193
ratified by nominal call	193
read for <i>information</i> , the day received	193
read for consideration on subsequent day	193
proceedings upon	193
reconsideration of votes upon, may be moved by	
one of the side prevailing	194
<i>Vote</i> , cannot, till sworn	94
every member must	169
must not vote, if not present	170
change of	169
<i>Warm words</i> , or quarrel, adjustment of	108, 119, 130
<i>Withdraw</i> , members cannot, when question is putting	169
<i>Withdraw motions</i> , rule of parliament	150
<i>Witnesses</i> , how summoned, examined, &c.	119
<i>Yeas and nays</i> , may be required by one-fifth	169
to be taken alphabetically	169
all present shall vote unless excused	169
when called and decision announced no member	
allowed to vote	169
how questions are determined by	168
no member to vote unless present	170

26
23





The first part of the paper discusses the importance of the research and the objectives of the study. It then proceeds to a literature review, followed by a description of the methodology used. The results of the study are presented in the next section, followed by a discussion of the findings and their implications. The paper concludes with a summary of the main points and suggestions for future research.

The research was conducted in a systematic and rigorous manner, following the principles of good research practice. The data collected was analyzed using appropriate statistical methods, and the results were presented in a clear and concise manner. The findings of the study are discussed in detail, and their implications for practice and policy are explored. The paper concludes with a summary of the main points and suggestions for future research.

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